



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MAKUENI**

**HCCR. NO. 82 OF 2017**

**REPUBLIC.....PROSECUTION**

**-VERSUS-**

**KASYOKA MUNYILU.....ACCUSED**

**RULING**

1. The accused was charged with offence of Murder Contrary to Section 203 as read with Section 204 of the Penal Code (Cap. 63), Laws of Kenya.
2. The particulars being that on 06/09/2015, at Kasengeini Village, Kibwezi District within Makueni County unlawfully murdered Agnes Kanza Nyamai.
3. The accused denied the charge and the matter went into trial.
4. At the end of the prosecution witness the court is called upon to make a case as to whether there is a case to answer to warrant the accused to be put on his defence.
5. The parties agreed to put submissions but none put same within the agreed time lines.
6. Thus the court is constrained to make a ruling without the advantage of the parties submissions.
7. This is a case where prosecution called 6 witnesses including Investigating officer, PW6 and the doctor PW5.
8. PW1 son of deceased saw his mother at the scene and was informed by one Nduku Masila that his mother was attacked by his father (accused herein).
9. PW2 deceased cousin also was at the scene and saw the injuries sustained by deceased. He assisted her in taking her to hospital.
10. PW4 said accused held deceased by hand leading her to the scene where she was found lying injured.
11. A boda boda person told PW3 and other women at merry go round meeting that deceased was being killed. Deceased was seen bleeding saying "*Kasyoka (accused) has killed me.*" PW3 heard deceased utter said words.
12. The above was corroborated by PW4 who went to the scene.
13. PW5 confirmed the injuries which caused death. The postmortem report was produced.
14. The investigating officer PW6 testified that the accused was arrested by the members of public.
15. The totality of evidence on record points at the accused as the person who on *prima facie* basis committed the offence and thus *prima facie* case has been made as per principles set out in BHATT AUTHORITY.
16. The court therefore orders the accused to be put on his defence.

**SIGNED, DATED AND DELIVERED THIS 13<sup>TH</sup> DAY OF NOVEMBER 2018, IN OPEN COURT.**

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**C. KARIUKI**

**JUDGE**