

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYERI

CRIMINAL CASE NO.7 OF 2014

JACKSON NGARA NDERITU.....ACCUSED

VERSUS

REPUBLIC.....PROSECUTION

RULING

The accused person **Jackson Ngara Ndeiritu** through the information dated 12th March 2014 was charged with Murder contrary to section 203 as read with section 204 of the Penal Code. It is alleged that on 1st March 2014 at Gakanja village, Endarasha Location, Nyeri County he murdered Philip Irungu Muturi.

The prosecution called 6 witnesses.

At the close of the case for prosecution the court is to determine whether a *prima facie case* has been established to warrant accused being put on the defence.

In **Republic -Vs- Wachira (1975) EA 262** the court cautioned that an accused person should only be acquitted at this stage only if:-

“There is no evidence of a material ingredient or if the prosecution has been so discredited and the evidence of their witnesses so incredible and untrustworthy that no reasonable tribunal properly directing itself could safely convict”

Having considered all the evidence on record and submissions on behalf of the defence and prosecution, I am of the opinion that a prima facie case has been made out to warrant the accused being put on the defence in compliance with section 306(2) of the CPC.

Dated, delivered and signed in open court this 6th Day of December 2018.

Mumbua T. Matheka

Judge

In the presence of: