

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 40 OF 2011

REPUBLIC.....PROSECUTOR

VERSUS

MOSES DOLA OTIENO.....ACCUSED

RULING

[1] Moses Dola Otieno is facing trial for the alleged murder of Sarah Wambui Kabiru. The offence is alleged to have been committed on 1st May 2011 at Umoja Estate in Nairobi. The prosecution has presented 16 witnesses from whose testimony the facts of the case as summarized below emerged.

[2] The accused and deceased were living together in Umoja Estate Nairobi and were considered married by friends and family. They had one child. Both were journalists by profession. Their otherwise budding relationship began experiencing domestic challenges when the accused lost his job. On the evening of the fateful day the couple was said to have been at home in their bedroom. Their house-help Eunice Wairimu Mwangi (PW16) heard them converse before retiring. In the morning the accused asked their house-help (PW16) to mind the baby explaining that Sarah (the deceased) had left the house. He went to seek out the deceased's brother (PW2) who lived within the same estate. He confided in the brother-in-law that they had quarreled and Sarah had left the house.

[3] Meanwhile the house help (PW16) called the deceased's mother and expressed her apprehension. When the mother (PW1) failed to get the deceased on phone, she called her son (PW2) and asked him to check on them. PW2 passed his phone to the accused who reassured his mother-in-law that all was well. Later in the evening however, he called his father-in-law (PW4) and informed him that Sarah was dead. PW4 who was then in his home in Mombasa in turn called his friend (PW5) and requested him to go to the accused's house in Umoja to verify the information he had received. PW2 sought the assistance of the police and they found Sarah Wambui dead in the bedroom. On the 4th May 2011, the accused surrendered himself to the police at Naivasha Police Station. He was arrested and taken to Buruburu police Station from where the investigation commenced. The accused was later charged with the offence of murder.

[4] From my consideration of the evidence summarized above, I find that the prosecution has established a *prima facie* case against the accused. I invite him to elect how to proceed with his defence in accordance with Section 306 of the Criminal Procedure Code.

Orders accordingly.

Ruling delivered and signed at Nairobi this **11th** day of **May** 2016.

R.LAGAT -KORIR

JUDGE

In the presence of;

..... court clerk

..... Accused

..... For the accused

..... For the State