

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 41 OF 2012

REPUBLIC.....PROSECUTOR

VERSUS

AMOS GACHIE MWANGIACCUSED

RULING

The accused **Amos Gachie Mwangi** is charged with murder contrary to section 203 as read with Section 204 of the Penal Code. The particulars are that on 23rd May 2012 at Ruiriro village in Ruiru District within Kiambu County murdered **Esther Waceke Mwangi**. Eighteen prosecution witnesses have so far testified. From their collective testimony a clear picture of the facts of the case emerge. I summarize the same herebelow.

Amos Gachie Mwangi (the accused) and Esther Waceke Mwangi (the deceased) started cohabiting sometimes in early 2012. They lived in Ruiriro village in Murera Location. Prior to that Esther was legally married to one Joseph Wambugu Maina. They were married in 2007. Their marriage was blessed with 2 children. However, sometimes in 2011 Esther left her matrimonial home and relocated to Githurai in Nairobi. She met the accused with whom she later cohabited. Sometimes in May 2012, Esther's legal husband Joseph Wambugu Maina came calling. They decided to reconcile and rebuild their marriage.

Joseph Wambugu testified as PW7 and told the court of their reconciliation efforts. That after communicating for a while, they decided to visit Esther's parents to involve them in their reconciliation. They travelled to Esther's parent's home in Nyahururu on 18th May 2012 and spent time with father (PW 4) and mother (PW10). Both confirmed to the court they hosted the couple on that day and were happy with their reconciliation. PW10 told the court that the couple had been married for 7 years and that after the visit, she communicated with her daughter who confirmed she had safely reached Nairobi and was staying with her cousin.

The accused worked as a motor cycle Boda Boda rider. David Muiru was a colleague who knew him well. David testified as PW8 and told the court that on 23rd May 2012 he gave a ride to the deceased on Kenyatta Road, Juja and dropped her when they met the accused. She paid him and went to the accused's motor bike. PW9 John Kungu was another motor cycle rider. He told the court that he saw the accused carrying Esther (the deceased) in the direction of Mirera on 23rd May 2012. Thereafter, he was in communication with the accused whom he said was acting suspiciously when the said Esther was reported missing and a search was going on.

The decomposed body of the deceased was retrieved in parts. PW3 Sammy Wagacha Kamau (the deceased's brother) and PW4 Humprey Mwangi Matheri (the deceased's father) told the court how their search efforts had led to the recovery of a human head and palms from a disused pit latrine near the accused's house and the recovery of other body parts from River Theta. The pathologist Dr. Rose Jalang'o testified as PW14 and told the court that she carried out an autopsy on the decomposing body parts and found the cause of death to be severe mutilation.

The accused elected to make a confession. He did so before Hon. Martha Mutuku, Senior Principal Magistrate, Thika Law Courts. That was on 4th June 2012. Hon. Mutuku testified as PW13 and produced the confession statement which was admitted in evidence.

After a careful analysis of the evidence presented above, I have come to the finding that the prosecution has established a *prima facie* case against the accused person. He has a case to answer and shall proceed to do so in accordance with Section 306 of the Criminal Procedure Code.

Orders accordingly.

Ruling delivered, dated and signed at Nairobi this 13th day of May, 2015

R. LAGAT - KORIR

JUDGE

In the presence of:

.....:	Court clerk
.....:	Accused
.....:	For the accused
.....:	For the state