

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 98 OF 2011

REPUBLIC.....PROSECUTOR

VERSUS

HARRISON MUGO MOSES.....ACCUSED

RULING

Harrison Mugo Moses referred to as the accused in this ruling is facing a charge of murder contrary to section 203 as read with section 204 of the Penal Code. The particulars of the charge state that on the 14th day of December 2011 at about 6.00am at Thindigua Estate in Kiambu District within Central Province he murdered Mary Kagure Ngumbi referred to in this ruling as the deceased. The charge sheet was amended on 10th November 2014 to add aliases to the names of the accused and the deceased as alias Baba Nathan and Mama Nathan respectfully.

In total sixteen (16) witnesses testified in support of the prosecution case. Hearing of this case commenced on 29th May 2014 before Honourable Lady Justice Florence Muchemi (Justice Muchemi) who took evidence from one prosecution witness. I took over the conduct of this case on 10th November 2014 following the transfer of Justice Muchemi. Both the prosecution and the defence consented to continue with the matter from where Justice Muchemi had reached. After hearing the evidence of fifteen witnesses the prosecution closed its case. Both the prosecution and the defence opted not to submit at this stage preferring to have the court give its ruling on the matter.

The task before me at this stage is simply to determine whether the evidence adduced by the prosecution witnesses is sufficient to support a prima facie case so as to warrant the placing of the accused on his defence. The court is not required at this stage to examine the evidence in detail as is expected when determining whether the accused is guilty or not in a final judgement. All that is required is for the court to determine whether there is credible and sufficient evidence against the accused as to require him to defend himself.

I have carefully examined all the evidence placed before me and without going into the details of what each witness told the court make a conclusion that there is sufficient evidence against the accused and that a case has been made out to require him to give his defence. I will and do hereby place the accused on his defence after making a finding that a prima facie case has been made out against him to make this court conclude that he has a case to answer. In line with the provisions of section 306 (2) of the Criminal Procedure Code this court informs the accused person of his right to address this court on the manner in which he intends to give evidence in his defence. He is also informed of his right to call witnesses to testify in his defence and to inform this court if he so wishes to call any witness.

Orders are made accordingly.

Dated, signed and delivered this 12th day of May 2015.

S. N. Mutuku

Judge