



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT NAIROBI**

**CRIMINAL CASE NO. 72 OF 2012**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**SAMUEL TEDDY GITAU.....ACCUSED**

**RULING**

Samuel Teddy Gitau, the accused in this case, is charged with murder contrary to section 203 read with section 204 of the Penal Code. The particulars of the offence state that between the 3<sup>rd</sup> and 4<sup>th</sup> days of September 2012 at Umoja Road area of Ongata Rongai Township within Kajiado County he murdered Mercy Wanjiru Muiruri.

Hearing of this case commenced before Hon. Lady Justice Florence Muchemi who took evidence of eight witnesses. I took over the proceedings of this case after her transfer to another station and heard evidence of one witness.

After the closure of the prosecution case this court is required to determine whether the evidence tendered by the prosecution establishes a prima facie against the accused person. If so, then this court will put him on his defence and if not then the law requires that the accused person be acquitted at this stage.

On 4<sup>th</sup> September 2012, the deceased Mercy Wanjiru Muiruri was found dead inside her house at Umoja Road in Ongata Rongai Kajiado County. According to the evidence the deceased was seen last on 3<sup>rd</sup> September 2012 arguing with the accused over unpaid rent. The two lived as man and wife and had three children. At the time the deceased was found dead the accused was not present. He was arrested in Kangundo on 6<sup>th</sup> September 2012 while admitted at the local District Hospital. Police from Ongata Rongai transferred the accused from Kangundo District Hospital to Ongata Rongai on 9<sup>th</sup> September 2012 and charged him with this offence.

At this stage the court is not required to examine all the evidence in detail. Suffice it to state that the court is required to determine whether the evidence establishes a prima facie case against the accused in order to put him on his defence.

I have carefully examined the evidence and I am persuaded that the evidence so far recorded is sufficient to have the accused placed on his defence. Consequently, I hereby make a finding that the accused person in this case, Samuel Teddy Gitau, has a case to answer. He is informed of his right under section 306 (2) of the Criminal Procedure Code to address this court in the manner he wishes to defend himself and on whether he intends to call any witnesses in his defence. I make orders accordingly.

**Dated, signed and delivered this 9<sup>th</sup> day of July 2015.**

**S. N. MUTUKU**

**JUDGE**