

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 8 OF 2010

REPUBLIC.....PROSECUTOR

VERSUS

ELIJAH KIBE NTHIGA.....ACCUSED

RULING

The accused person, Elijah Kibe Nthiga, is charged with the murder of Nicholas Mutembei Thurairua, deceased, contrary to section 203 read with section 204 of the Penal Code. It is alleged in the particulars of the offence that the accused murdered the deceased on 11th January 2010 at Sunton area Kasarani District within Nairobi Area Province jointly with others not before the court (sic).

After the testimony of nine witnesses the prosecution closed its case. In summary form the deceased went missing on 11th January 2010. His family reported the matter at Kasarani Police Station. The matter was referred to the Flying Squad who conducted investigations. The body of the deceased was recovered from a shallow grave at Kasarani Sports Complex. Police said the accused person, who had been arrested after he was implicated in the matter, led them to the grave where the body was found. Evidence shows that the body had been cut into two pieces and stuffed in two bags and buried. It was taken to the City Mortuary where the post mortem was conducted.

The duty of the court at this stage is to determine whether the prosecution has established a prima facie case against the accused person. After due consideration of all the evidence tendered, I make a finding that I am persuaded that the accused person has a case to answer. Consequently, I will and do hereby put the accused on his defence. He is informed of his right to address the court in the manner he wishes to defend himself and whether he will call any witnesses. Orders are made accordingly.

Dated, signed and delivered in open court this 2nd November 2015.

S. N. MUTUKU

JUDGE