

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 39 OF 2014

REPUBLIC.....PROSECUTOR

VERSUS

GEOFFREY AMIANI LUMIRA.....ACCUSED

RULING

Geoffrey Amiani Lumira, the accused, is charged with murder contrary to section 203 as read with section 204 of the Penal Code. The particulars of the charge are that on the 28th day of April 2014 at Muthurwa Market within Nairobi County, he murdered Bernard Otoro.

Bernard Otoro, the deceased, died on 2nd May 2014 as a result of head injuries he sustained on 28th April 2014. As testified, the accused was attacked by the accused who hit him on the head with a piece of wood causing injuries.

In support of the prosecution case, nine witnesses testified. This court is required at this stage of the trial to analyze that evidence to determine whether the prosecution has proved a prima facie case to necessitate the placing of the accused on his defence.

I have analyzed the evidence of the nine witnesses. I note that the deceased died four days after the assault while undergoing treatment at Kenyatta National Hospital. Doctor Emily Rogena, PW8, confirmed cause of death as head injury (subdural, extradural and subarachoid haemorrhage) with temporal bone and base of the skull fracture due to blunt force trauma to the head.

I have considered the evidence of the two eye witnesses Bernard Washington Osiru Otito, PW4, and Julius Aswani Omwerema, PW2, and I find that the accused is implicated in the murder. I find that the prosecution has made out a prima facie case and that this court properly directing its mind to the law and the available evidence can convict on this evidence even if the defence were not to offer any explanation. The accused has a case to answer and this court will proceed, which I hereby do, to place him on his defence. In compliance with section 306 (2) of the Criminal Procedure Code, this court has informed the accused of his right to give evidence in his defence and call witnesses. He is informed of his right to address this court on the manner he wishes to defend himself. Orders shall issue accordingly.

Dated, signed and delivered this 2nd November 2015.

S.N.MUTUKU

JUDGE