

REPUBLIC OF KENYA

IN THE HIGH COURT AT MALINDI

CRIMINAL CASE NO. 14 OF 2010

REPUBLICPROSECUTOR

VERSUS

BAHATI FONDO ACCUSED

RULING

1. The accused was charged with the murder contrary, to Section 203 as read with Section 204 of the Penal Code, of Zubeda Bahati on 12th December, 2009 at Mnarani area, Kilifi. He denied the charge and he was represented by Mr. Muranje.
2. At the close of the prosecution case, only three witnesses had testified. To the effect that the accused was the estranged husband of the deceased and that she was in the material period working for one Rhoda as a househelp. On 12th December, 2009 Rhoda sent her to her (Rhoda) sister's house. The said sister is Lydia Gathoni (PW3). It would seem that an unknown person followed Zubeda to PW3's house and murdered her in the store of the home. The first suspect was the accused who had previously threatened to kill Zubeda. The deceased had confided this information a month previously to PW3.
3. Evidently, there were grounds to suspect that the accused had some connexion to the murder of Zubeda. He was arrested but it seems no proper investigations were carried out to establish his exact role in the gruesome killing of his wife. As the evidence now stands, no reasonable tribunal can place the accused on his defence. No prima facie case has been established against him. I will acquit him under Section 306(1) of the Criminal Procedure Code and direct that he be set at liberty unless otherwise lawfully held.

Delivered and signed at Malindi this 5th day of **March, 2014** in the presence of the Accused, Mr. Michira holding brief for Mr. Muranje for the accused, Mr. Kasyoki for the State.

Court clerk - Samwel

C. W. Meoli

JUDGE