

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO.12 OF 2010

REPUBLIC.....PROSECUTOR

VERSUS

ROBERT MUTUNGA MUTHAMAACCUSED

RULING

The accused **Robert Mutunga Muthama** is charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code. He is alleged to have murdered one **Alice Wanjiku Kibugi** on the 21st day of February, 2010 at Gatuanyaga Village in Thika District within Central Province. He denied the charge when arraigned in court on 11th March 2010. His trial commenced on 16th July, 2013.

The prosecution has called a total of 12 witnesses in this case. PW1 and PW3 testified that they were alerted by a motor cyclist that a woman had been beaten and was lying by the road side at Salama. That on going to see they found that it was their aunt. They saw that she had a deep cut across the face and was bleeding from the nose and mouth. That they made a report at the nearby Makongeni AP Camp and proceeded to their grandmother's home to inform her. That while at the scene they had seen a man standing by who told them that he was the one who had beaten the deceased and that he was only waiting for her to say her final prayers before finishing her off.

PW4 and PW 5 stated that they were informed by PW1 and PW3 that the deceased was lying injured by the road side and on rushing to the scene, they found the deceased already dead and covered with a piece of cloth. That shortly thereafter, they saw a person who had been apprehended by AP officers. PW 8 testified that she was at the gate of the residence of the D.C. performing sentry duties when a boy reported to her that he had seen the body of a woman lying on the road near his home. That together with her colleagues they went to the scene where they found the body and also the accused who was standing nearby. That upon interrogation, the accused stated that he had beaten the deceased as she had wronged him.

PW 7 testified that on the material date he saw a man wielding a panga near his farm. He suspected that the man was a thief and tried to snatch the panga from him. He succeeded and threw the panga into his compound. That shortly thereafter, he learnt that a woman had been attacked and that the accused was already apprehended and the police were looking for the panga which turned out to be the murder weapon. It was his testimony that he recognized the man who had been apprehended as the same person from whom he had snatched the panga. Taken together, the testimony of the witnesses outlined above point to the accused having been present at the scene of the crime. Further, PW 6 testified that he conducted an analysis of the blood stains on the panga and found that it matched the blood sample of the deceased.

A careful analysis of the evidence outlined above and the totality of the prosecution evidence now on record, point to a *prima facie* case against the accused. I find that he has a case to answer. I put him on his defence under Section 306 of the Criminal Procedure Code.

Ruling delivered and signed at Nairobi this 11th day of **November**, 2014.

R.LAGAT-KORIR

JUDGE

In the presence of:

.....: Court clerk

.....: Accused

.....: Counsel for Accused

.....: Counsel for the State