

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 106 OF 2012

REPUBLIC.....RESPONDENT

VERSUS

VICTOR MBOTE KANYATTA..... APPLICANT

RULING

The accused, **Victor Mbote Kanyatta** alias **Kangethe** is facing trial for the murder of **Lukas Njenga**. He is alleged to have committed the offence on 10th December 2012 at **Gitambaa Village, Kiambu County**. He denied the charge when he was arraigned in court on 15th January 2013.

The prosecution has called a total of 6 witnesses. At the close of the prosecution's case both the prosecution and the defence filed written submissions which they subsequently highlighted.

It is the prosecution's case that the accused together with two other suspects not before court went to the house of the deceased on the fateful night, woke him up and beat him while all the while accusing him of having stolen a cap and a mobile phone belonging to the accused. He later succumbed to the injuries.

PW 1 (Rosemary Waceke) and PW 2 (Anastacia Muthoni Mwihi) testified to having seen the accused beating the deceased. They stated that they knew the accused who was their village mate by the popular name 'Kangethe' and positively identified him as being one of the people who beat up the deceased.

A post mortem report was produced by PW 5 Dr. Johansen Oduor who testified to having conducted a post mortem on the body of the deceased and found the cause of death to be head injury due to blunt trauma.

The prosecution has urged the court to find that the accused has a case to answer. It has filed extensive submissions analyzing the evidence as presented in court through the prosecution witnesses.

The defence on its part has filed submissions urging the court to acquit the accused for want of sufficient evidence and for the discrepancies in the testimony of the prosecution witnesses.

Having carefully considered and analysed all the evidence on record as well as the submissions made by both the prosecution and the defence, I find that the prosecution has established a *prima facie* case to warrant putting the accused on his defence. I find the accused Victor Mbote Kanyatta has a case to answer. I require him to make his defence as per **Section 306 of the Criminal Procedure Code**.

Ruling delivered, dated and signed at Nairobi this 1st day of October, 2013

R. LAGAT - KORIR

JUDGE

In the presence of:

.....: Court clerk

Victor Mbote Kanyatta : Accused

.....: For the Accused

.....: For the State