



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MERU**

**(CORAM: CHERERE-J)**

**CRIMINAL CASE NO. E020 OF 2021**

**BETWEEN**

**REPUBLIC.....PROSECUTOR**

**AND**

**HENRY KAITHIA.....ACCUSED**

**RULING**

1. **HENRY KAITHIA (Accused)** is charged with the offence of Murder Contrary to Section 203 as read with Section 204 of the Penal Code. The particulars of the charge are that on the 02<sup>nd</sup> February, 2021 at Shauri Yako slums within Mutuati Township Amwathi 1, sub-location, in Igembe North sub-county within Meru County murdered **JULIUS MITHIKA**.
2. The accused person denied committing the offence and the prosecution called a total of 5(five) witnesses in support of their case. Upon the prosecution closing its case this court has to determine whether or not the prosecution has established a prima facie case against the accused as defined in the case **Ramanlal Trambaklal Bhatt vs Rex [1957] EA 332, 335.**
3. At this stage, the court is not required to decide finally whether the evidence is worthy of credit or whether, if believed, it is weighty enough to prove the case conclusively, -that final determination can only properly be made when the case for the defence has been heard.
4. Having considered the evidence tendered by the four prosecution witnesses I am persuaded that a prima facie case has been established that warrants this court to call upon the Accused person to defend himself.
5. Accordingly, the Accused person will proceed as provided under Section 306 (2) of the Criminal Procedure Code.

**DATED THIS 25<sup>th</sup> DAY OF November 2021**

**WAMAE. T. W. CHERERE**

**JUDGE**

**Court Assistant - Kinoti**

**Accused - Present**

**For the Accused persons - Mr. Sandi Advocate**

**For the State - Ms. Mwaniki**