



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MERU**

**(CORAM: CHERERE-J)**

**CRIMINAL CASE NO.1 OF 2017**

**BETWEEN**

**REPUBLIC .....PROSECUTOR**

**AND**

**AGNES MUROCHIA KAMUNYA .....1<sup>ST</sup> ACCUSED**

**PATRICK KINOTI KAMUNYA .....2<sup>ND</sup> ACCUSED**

**JEREMIAH KAILIKIA KAMUNYA .....3<sup>RD</sup> ACCUSED**

**PHINEAS KINYUA KAOME.....4<sup>TH</sup> ACCUSED**

**DAVID KINYUA MUGAMBI.....5<sup>TH</sup> ACCUSED**

**MARY KANARIO KAMUNYA .....6<sup>TH</sup> ACCUSED**

**DOMICIANO KOBIA KITIBO.....7<sup>TH</sup> ACCUSED**

**RULING**

1. Accused persons herein are jointly 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 night of 24<sup>th</sup> and 25<sup>th</sup> December, 2016 at Kianjai Market, Kianjai Location, in Tigania West Sub-County within Meru County murdered **LEONARD MWITI MUGAMBI alias Mbotela**.

2. The accused person denied committing the offence and the prosecution called a total of 9 (nine) 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 nine prosecution witnesses I am persuaded that a prima facie case has been established that warrants this court to call upon the Accused persons to defend himself.

5. Accordingly, the Accused person will proceed as provided under Section 306 (2) of the Criminal Procedure Code.

**DATED THIS 25TH DAY OF NOVEMBER 2021**

**WAMAE. T. W. CHERERE**

**JUDGE**

**COURT ASSISTANT - KINOTI**

**ACCUSED 1-7 - PRESENT**

**FOR THE ACCUSED PERSONS - MR. KAIMENYI ADVOCATE**

**FOR THE STATE - MS. MWANIKI**