



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KITALE**

**CRIMINAL CASE NO. 21 OF 2012**

**REPUBLIC .....PROSECUTOR**

**VERSES**

**SAMSON KAMAU NJOROGE.....1<sup>ST</sup> ACCUSED**

**MUSA EREGEI ECHAU.....2<sup>ND</sup> ACCUSED**

**RULING**

1. The Accused persons were charged with the offence of **Murder contrary to Section 203 as read with Section 204 of the Penal Code Cap 63 Laws of Kenya**. The particulars of the charge was that **on the night of 9<sup>th</sup> and 10<sup>th</sup> May, 2012 at Naisambu area within Trans Nzoia county murdered ALICE WANGUI KAMAU**.
2. They both denied the charge and the prosecution called a total of 6 witnesses to prove its case. The court has perused the evidence on record and at this juncture its required to determine whether in the light of the evidence on record the accused persons should be placed on their defences.
3. It must be understood that although both have been charged with same count, each one is supposed to be independently convicted or set free.
4. Having heard the parties so far the court is satisfied that save for PW3 there was no evidence direct or circumstantial linking the 2<sup>nd</sup> Accused to the offence. He was neither mentioned by the witnesses, either the professional or the ordinary witnesses.
5. The same was not the case for the 1<sup>st</sup> Accused whose names and actions featured prominently all through.
6. For the foregoing reasons, I do find that a prima facie case has been established against the 1<sup>st</sup> Accused person under the provisions of Section 211 of the Criminal Procedure Code. Let him be placed on his defence.
7. The second accused Musa Eregei Echau is set free unless lawfully held pursuant to the provisions of section 210 of the Criminal Procedure Code.

**Dated, signed and delivered in open court at Kitale this 23<sup>rd</sup> day of May, 2019.**

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**H K CHEMITEI**

**JUDGE**

**23/5/19**

**In the presence of:**

**Mr Omori for State**

**Mr. Onyancha for 1<sup>st</sup> Accused**

**Holding brief for Karani for 2<sup>nd</sup> Accused**

**Mr. Bororio watching brief for the family**

**Accused 1 and 2 – present**

**Court Assistant – Kirong**

**Ruling read in open court.**