



**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT NAKURU**

**CRIMINAL MURDER CASE NO. 62 OF 2016**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**JOSEPH JUMA SIMIYU.....1<sup>ST</sup> ACCUSED**

**EMMANUEL SIMIYU NYONGESA.....2<sup>ND</sup> ACCUSED**

**JOSEPH WANYONYI NYONGESA.....3<sup>RD</sup> ACCUSED**

**RULING**

**Under Section 306(1) and (2) of the Criminal Procedure Code(Cap 75 Laws of Kenya)**

The prosecution called seven(7) witnesses to prove the case of murder against the three accused persons who are charged with the offence of murder of one Francis Njuguna on the 15<sup>th</sup> October 2016 at Nyakinywa village, Njoro Sub-County within Nakuru County.

I have interrogated the evidence adduced by the witnesses. The three accused persons are placed at the scene of crime.

Both the prosecution and the defence did not tender any submissions on the matter as to whether the prosecution had, by its evidence, established a *prima facie* case against the accused persons.

Under **Section 306(1) (2) of the Criminal Procedure Code (Cap 75)** if the court is satisfied that there is no sufficient evidence to call upon an accused person to answer to the charge, a finding of not guilty ought to be entered, but if such evidence is sufficient and establishes a *prima facie* case, then the accused is required to answer by way of unsworn or sworn evidence.

Upon examination of the evidence, I am satisfied that a *prima facie* case has been established against the accused persons – **Bhatt –vs- Republic (1957) IEA 332**, to warrant them to be placed on their defence – under Section 306(1) of the Criminal Procedure Code.

It is so ordered.

**Dated, delivered and signed at Nakuru this 26<sup>th</sup> Day of June 2019.**

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**J.N. MULWA**

**JUDGE**