



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 80 OF 2015**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**RAPHAEL MUIA MUTUA.....ACCUSED**

**R U L I N G**

1. **Raphael Muia Mutua**, the Accused was arraigned in Court following accusation of **Murder** contrary to **Section 203** as read with **Section 204** of the **Penal Code**. Particulars of the offence are that on **21<sup>st</sup> November, 2015** at **Katilini Sub-Location, Kalivu Location, Ikithua Sub-County** within **Kitui County** murdered **Joseph Mutua** (Deceased).

2. On the fateful date, PW1 **Patricia Mwikali Kyalo** and another were on the farm planting. Donkeys stated to be owned by the Accused trespassed on to their land. The Deceased drove them out of the farm towards the boundary. All over a sudden there were screams. She ran to the scene some approximately twenty (20) metres away and found the Deceased having fallen down on the ground. He was bleeding and the Accused was struggling to remove an arrow that was embedded on his chest. There was a bow and three arrows that had fallen nearby. She screamed and called out. Her husband, PW2 **Kyalo David** who was ploughing at a different location answered her call of distress. He found the Accused still struggling to remove the arrow from the Deceased. They managed to restrain the Accused. The police were called. They arrested the Accused and took away the mortal remains of the Deceased.

3. Subsequently, a post-mortem was conducted. It was established that the cause of death was cardiorespiratory arrest following the ruptured/punctured heart.

4. At the close of the Prosecution's case evidence pointed at the Accused as the person who most likely committed the act that caused the death of the Deceased.

5. Therefore, I call upon him to render an explanation in his defence pursuant to **Section 306(2)** of the **Criminal Procedure Code**.

6. It is so ordered.

**Dated, Signed and Delivered at Kitui this 25<sup>th</sup> day of July, 2019.**

**L. N. MUTENDE**

**JUDGE**