

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KITUI

CRIMINAL CASE NO. 28 OF 2016

REPUBLIC.....PROSECUTOR

VERSUS

RHODA NDUTI MBUVI.....1ST ACCUSED

DAVID NZUKI.....2ND ACCUSED

KIOKO NZUKI.....3RD ACCUSED

R U L I N G

1. **Rhoda Nduti Mbuvi** (1st Accused), **David Nzuki** (2nd Accused) and **Kioko Nzuki** (3rd Accused) are charged with the offence of **Murder** contrary to **Section 203** as read with **204** of the **Penal Code (Cap 63), Laws of Kenya**. Particulars of the offence are that on the **1st day of December, 2016** at around **1100hrs** at **Kangondi Location** in **Kitui West Sub-County** within **Kitui County** murdered **Mwalimu Nzuki** (Deceased).

2. Facts of the case are that the Deceased was assaulted. He sustained injuries that he subsequently succumbed to. The Accused persons surrendered to the police, were arrested and subsequently charged.

3. At the close of the Prosecution's case, the fact of death was proved by evidence of a postmortem report that was adduced in evidence by PW6 **Doctor Edward Kiatu** who opined that the cause of death was severe head injury and issued Certificate of Death **No. 0987482**.

4. This is a case where it was stated by Prosecution witnesses that after the altercation, the Accused surrendered to the police. It therefore behooves them to render an explanation as to what transpired. In the result, I call upon them to give the explanation pursuant to the provisions of **Section 306(2)** of the **Criminal Procedure Code**.

5. It is so ordered.

Dated, Signed and Delivered at Kitui this 24th day of July, 2019.

L. N. MUTENDE

JUDGE