

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KITUI

CRIMINAL CASE NO. 22 OF 2015

REPUBLIC.....PROSECUTOR

VERSUS

KIYACI NGUNA.....1ST ACCUSED

DAVID NJERU KIYACI.....2ND ACCUSED

MUCOKA KIYACI.....3RD ACCUSED

ALEX MUCOMBA KIYACI.....4TH ACCUSED

R U L I N G

1. **Kiyaci Nguna, David Njeru Kiyaci, Mucoka Kiyaci and Alex Muomba Kiyaci**, the 1st, 2nd, 3rd and 4th Accused persons respectively are charged with the offence of **Murder** contrary to **Section 203** as read with **Section 204** of the **Penal Code (Cap. 63), Laws of Kenya**. Particulars of the offence are that on the **26th day of July, 2010** at about **8.00 a.m.** at **Gatoroni Village** in **Mumoni District** within the **Eastern Province** jointly murdered **Julius Murugu Nthendu** (Deceased).

2. At the close of the Prosecution's case evidence adduced was that the Accused persons and the Deceased who had a family were neighbours. On the **26th day of July, 2010** at about **8.00 a.m.** the Deceased and his family were at home when the Accused persons who were armed with bows, arrows and machetes, ambushed them. They pelted them with stones and set their house ablaze. Family members amongst them **PW1, Elizabeth Kawira** and **PW2 Gacoe Mugao** scampered and ran away. The attackers caught up with the Deceased and fatally wounded him.

3. A post mortem was conducted on the body of the Deceased by **PW6 Doctor Balongo Alan** who opined that the cause of death was cardiopulmonary arrest secondary to exsanguinations due to deep cut wounds on the neck.

4. The Accused persons having been identified by eye witnesses including their neighbours **PW3 Mary Muthoni Katoloni** and **PW4 Martin Kibara Muniu** who stated that they saw them commit the act that resulted into the death of the Deceased, the Prosecution have established a *prima facie* that requires the Accused to be put on their defence.

5. In the result I call upon the Accused to defend themselves pursuant to the provisions of **Section 306(2)** of the **Criminal Procedure Code**.

6. It is so ordered.

Dated, Signed and Delivered at Kitui this 18th day of April, 2018.

L. N. MUTENDE

JUDGE