



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT ELDORET**  
**CRIMINAL CASE NO. 59 OF 2011**

**REPUBLIC.....PROSECUTOR**

**V E R S U S**

**LEONARD MUKUNZA HENRY.....1<sup>ST</sup> ACCUSED**

**SIMON KEMBOI KAINO.....2<sup>ND</sup> ACCUSED**

**RULING**

1. The two accused persons *Leonard Mukunza Henry* and *Simon Kemboi Kaino* are jointly charged with the offence of Murder contrary to *Section 203* as read with *Section 204* of the *Penal Code*.
2. It is alleged that on the 1<sup>st</sup> day of September 2011 at Sango village, Likuyani District within the Western Province, jointly with others not before the court, the accused persons murdered *Moses Wekesa Soita*.
3. Each of the accused persons denied the charges. In support of its case, the prosecution called a total of ten witnesses. At the close of the prosecution case, learned counsel for the accused persons *Mr. Chepkwony* chose to file written submissions under *Section 306* of the *Criminal Procedure Code* but learned prosecuting counsel *Ms Oduor* opted not to make any submissions at this stage.
4. I have carefully read and evaluated all the evidence on record alongside the written submissions filed by *Mr. Chepkwony* on the accused person's behalf. Having done so, I am satisfied that a prima facie case as defined in ***Bhatt V Republic (1957) EA 332*** at page 334 has been made out by the prosecution against each of the accused persons. In the premises, I find that each of the accused persons has a case to answer and is accordingly put on his defence under *Section 306(2)* of the *Criminal Procedure Code*.

It is so ordered.

**C. W. GITHUA**

**JUDGE**

**DATED, SIGNED and DELIVERED at ELDORET this 22<sup>nd</sup> day of March, 2017**

In the presence of:-

Both accused persons

Mr. Chepkwony for both accused persons

Miss Karanja for the Republic

Mr. Lobolia Court clerk