



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIVASHA
CRIMINAL CASE NO. (MURDER) 49 OF 2015
(Formerly Nakuru HCCRC No. 11 of 2014)

REPUBLICPROSECUTOR

-VERSUS-

ISAAC MBUGUA HARRISSON.....1ST ACCUSED
GRACE WANJIKU MBUGUA.....2ND ACCUSED
JAMES KAMAU3RD ACCUSED
HARRISON NGIGI MBUGUA.....4TH ACCUSED
JOSEPH MUCHATHA alias JESSE5TH ACCUSED

R U L I N G

1. The five Accused persons were charged with Murder Contrary to Section 203 as read with Section 204 of the Penal Code. In that between 13th and 15th January, 2014 at Kayole Estate in Naivasha Sub-county within Nakuru County, they jointly with others not before court murdered **Samuel Imbuga Mahiva**.
2. Six witnesses testified on behalf of the prosecution. From the prosecution evidence, the 1st, 2nd, 3rd, and 4th Accused are members of the same family. They were arrested in connection with the discovery of the deceased’s decomposing body at a scene within the vicinity of their family home. The 5th Accused was not related by blood to the rest of the Accused persons or shown to have been complicit in the offence.
3. According to **Corporal Kogo (PW6)** who investigated this case, the 5th Accused was arrested pursuant to information received by the OCS and other persons. That information was not placed before this court as the said OCS did not testify in the trial.
4. At the close of the prosecution case therefore, there is not a scintilla of evidence to connect the 5th Accused with the offence charged. I will therefore find that he has no case to answer and acquit him under Section 306 (1) of the Criminal Procedure Code.
5. However, with regard to the 1st to the 4th Accused persons, I am satisfied that they have a case to answer and will place them on their defence.

Delivered and signed in Naivasha this **31st** day of **May, 2017**.

In the presence of:-

Mr. Mutinda for the DPP

Mr. Mburu for the 5th Accused and holding brief for Mr. Kimani for the 1st to 4th Accused

1st to 5th Accused – All present

C/C - Barasa

C. MEOLI

JUDGE