



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 15 OF 2015**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**KYALO MULWA.....ACCUSED**

**RULING**

1. **Kyalo Mulwa**, “the Accused” is 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 **26<sup>th</sup>** day of **December, 2010** at **Kwa-Ukungu Shopping Center, Nzunguni Sub-location, Kyangwithya East Location** in **Kitui District** within **Kitui County** murdered **Francis Muinde** (Deceased).
2. At the close of the Prosecution’s case, evidence adduced was that on the **20<sup>th</sup> December, 2010** the Accused was sitting at the verandah of the **Kwa Mariam Bar** within **Kwa Ukungu Market** drinking alcohol, when the Deceased confronted him and alleged that he had robbed him of a mobile phone and cash money. A fight ensued between them whereby he assaulted him. Subsequently he succumbed to injuries sustained.
3. An autopsy carried out revealed that the cause of his death was brain death secondary to massive subdural haematoma due to skull fracture.
4. The Accused having been identified as the person who struck the Deceased on the head with a piece of wood should give an explanation as to what happened.
5. In the premises, the Accused is called upon to defend himself 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 15<sup>th</sup> day of March, 2016.**

**L. N. MUTENDE**

**JUDGE**