



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 74 OF 2015**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**KILATYA MUNYAO.....ACCUSED**

**RULING**

1. **Kilatya Munyao**, 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 nights of **21<sup>st</sup>** and **22<sup>nd</sup>** **July, 2013** at **Kasuni Village, Mandongoi Sub-location, Kyanyangi Location, in Lower Yatta District** within **Kitui County** murdered **Martha Musyoka** (deceased).

2. The case as presented by the Prosecution is that on the morning of **22<sup>nd</sup> July, 2013**, **Peter Mwanzi Mwanthi** went to visit his mother, the Deceased, at **Halima David's** home where she worked as a domestic servant. She found her lifeless body lying outside near the toilet. The Accused a herdsman at the home was nowhere to be seen. On close observation of the body, her eyes were gauged and ears were missing. The matter was reported to the police who commenced investigations.

3. As the investigations were ongoing a herdsman notified people that the Accused was in the thicket. They went to the area and found him sleeping. His clothes and a bed sheet that he had were blood stained. On analysis there were **99.99%** chances that the blood stain on the shirt that was indicated as belonging to the Accused belonged to the Deceased.

4. A postmortem was conducted on the body of the Deceased by **Dr. Patrick Mutuku**, PW1, who opined that the cause of death was cardiopulmonary collapse due to severance of major blood vessels.

5. At the close of the Prosecution's case a *prima facie* case had been established warranting the Accused to be put on his defence. I therefore call upon the Accused 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 21<sup>st</sup> day of July, 2016.**

**L. N. MUTENDE**

**JUDGE**