



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 105 OF 2008**

**REPUBLIC .....PROSECUTOR**

**VERSUS**

**GEOFFREY WAFULA MAKOE ..... ACCUSED**

**RULING**

1. **Geoffrey Wafula Makoe**, the Accused, is charged with the offence of **Murder** Contrary to **Section 203** as read with **Section 204** of the **Penal Code**; and **attempted murder** contrary to **Section 220** of the Penal Code. Particulars of the Offence are outlined in the information presented to court.
2. Circumstances of the offence herein are that on the 17<sup>th</sup> November, 2008, the accused, an Administration Police Officer was assigned duties of escorting BAT (K) Cigarettes from **Nairobi** to **Malindi**. The accused was armed with a G3 rifle and so were two (2) of his colleagues. They decided to spend a night at **Mtito Andei**. At about 11.00pm the accused decided to have a drink at a nearby pub. While there a scuffle ensued between him and some people. He lost Kshs. 3000/= in the process. Consequently, he rushed to his room and armed himself with a rifle. He returned to the venue and opened fire killing **Isaac Ndunda Muli** (deceased) instantly and injuring **Munyao Ikulumi**. The matter was reported to the police. Investigations were carried out and the accused was charged.
3. At the close of the prosecution's case a post-mortem report produced in evidence established the fact that the deceased died as a result of a fatal head injury secondary to a gunshot. This is proof of the fact of death. PW2; **Benson Munyao Kimanthi** identified the accused as the person who shot him twice in the thigh wounding him. Three fired cartridges recovered were confirmed to have been fired from the firearm that was issued to the accused.
4. At the conclusion of the prosecution's case there is sufficient evidence pointing to the accused as the person who committed the offence. He is therefore required to address the court in his defence pursuant to the provisions of **Section 306(2)** of the **Criminal Procedure Code**.

**DATED, SIGNED and DELIVERED at MACHAKOS this 18<sup>TH</sup> day of FEBRUARY, 2015.**

**L.N. MUTENDE**

**JUDGE**