

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MACHAKOS

CRIMINAL CASE NO. 59 OF 2010

REPUBLIC

versus

ALFONCE KYALO MUTHOKA.....ACCUSED

RULING

1. **Alphonse Kyalo Muthoka**, the accused, is charged with the Offence of **Murder** contrary to **Section 203** as read with **Section 204** of the Penal Code. Particulars of the offence are that on the **25th** day of **September, 2010** at around **8.00 p.m.** at Kiuva Village, Kilala Location in Makueni District within the Eastern Province murdered **Mercy Mumbua Kyalo** (deceased).
2. The Prosecution called evidence that established the death of the deceased. A postmortem conducted by **Dr. Jack Nthanga**, PW9 revealed that the body had five (5) penetrative stab wounds. He opined that the cause of death was internal bleeding with cardiac arrest.
3. Evidence was adduced by eye witnesses. PW1 and PW3 saw the accused in the act of stabbing the deceased on the abdomen. The unlawful act that caused the death of the deceased was committed in broad day light. The nature of injury sustained clearly shows that at least the perpetrator of the offence intended to cause grievous harm.
4. In the premises a *prima facie* case has been established requiring the accused to be put on his defence.
5. I therefore call upon him 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 MACHAKOS this 24TH day of JUNE, 2015.

L.N. MUTENDE

JUDGE