



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 64 OF 2009**

**REPUBLIC**

**VERSUS**

**MWENDWA MBITI ..... ACCUSED**

**RULING**

1. **Mwendwa Mbiti**, the accused person herein is charged with the offence of murder contrary to **section 203** as read with **section 204** of the **Penal Code**. Particulars of the offence thereof being that on the 20<sup>th</sup> day of October 2009 at **Majengo Estate** within **Kitui Township, Kitui District** of the **Eastern Province** murdered **Wambua Manzi**.
2. At the conclusion of the prosecution's case evidence adduced established that accused stabbed the deceased with a knife following a disagreement. The Doctor who performed a postmortem on the body of the deceased opined that the cause of death was haemothorax/pericardial effusion due to stab wound on the chest.
3. Any reasonable tribunal, properly directing its mind to law and evidence adduced so far on return a verdict of guilty without any explanation being rendered in defence. This means that a *prima facie* case warranting the accused being put on his defence has been established (See **Ramanlal T. Bhatt versus Republic (1957) E.A. 332**).
4. The accused shall be required to address the court on defence pursuant to the provisions of **section 306 (2)** of the **Criminal Procedure Code**.

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**L. MUTENDE**

**JUDGE**

**Dated and delivered at Machakos this 18<sup>th</sup> day of December 2013.**

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**L. MUTENDE**

**JUDGE**