

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU
CRIMINAL CASE NO. 28 OF 2008

REPUBLIC.....
.....PROSECUTOR

VERSUS

MIKE KIPCHIRCHIR KIMONGO.....
.....ACCUSED

RULING

The accused Mike Kipchirchir Kimongo was charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code (*Cap. 63, Laws of Kenya*).

The particulars are that the accused Mike Kipchirchir Kimongo on the 6th day of February 2008 at Perer Village Eldama Ravine in Koibatek District within Rift Valley Province, murdered Benjamin Kiprono.

The prosecution called four witnesses including the Investigating Officer and the Doctor whose evidence I have now considered. The evidence does in my view show a *prima facie* case upon which I find that the accused has a case to answer.

I therefore put the accused to his defence, and remind him of his statutory right under Section 306 of the Criminal Procedure Code, (*Cap. 75, Laws of Kenya*) to give evidence on oath and be subjected to cross-examination or give an unsworn statement and not be subjected to cross-examination, and to call witnesses. He may also opt to remain silent.

Upon completion of reading this Ruling, I call upon the accused or his Advocate on record to indicate which of these rights the accused will opt to exercise.

There shall be orders accordingly.

Dated, delivered and signed at Nakuru this 10th day of December, 2010

M. J. ANYARA EMUKULE
JUDGE