

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT ELDORET

Criminal Case 2 of 2007

REPUBLIC:.....STATE

VERSUS

JAMES KIMANI KITHINJI:.....ACCUSED

JUDGEMENT

JAMES KIMANI KITHINJI, the accused herein, is charged with the offence of murder contrary to S.203 as read with section 204 of the Penal Code in that on the night of 11th and 13th November 2006 at Kaboswa Tea Estate within Nandi Hills he murdered **VERITA WANJIKU**.

The prosecution closed its case without calling any witnesses. I therefore find there is absolutely no evidence to support the information and the particulars of the information. The accused, when he first appeared in court and the information and particulars were read to him, denied committing the offence and he continues to do so to date. It was upon the prosecution to adduce evidence to support the information but this they did not do despite the court giving them ample time to do so.

I therefore find the information and the particulars are unsupported. There is no evidence to prove a prima facie case to warrant the court call the accused to his defence. Consequently I find accused not guilty as charged and acquit him. Accused be set at liberty forthwith unless otherwise legally held.

Dated and Delivered at Eldoret on 26th day of February, 2008.

KABURU BAUNI

JUDGE

DELIVERED IN PRESENCE OF:-

C/C - David

Mr. Omutelema for state

Mr. Kipnyekwei for Accused person.