

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT MOMBASA

Criminal Case 22 of 2003

REPUBLICPROSECUTOR

VERSUS

CHRISITOPHER MASAI MAFUTAACCUSED

R U L I N G

Christopher Masai Mafuta is before this court on the information of the Attorney General facing a charge of murder contrary to Section 203 as read with Section 204 of the penal code. The particulars are that on the 20th day of June 2003, at about 5.00 p.m. at Msengoni village in Mboghoni sub location within Taita Taveta District of the Coast Province, unlawfully murdered Kenio Mnjama. At the close of the prosecution's case, a total of six (6) witnesses testified in support of the charge of murder. Both Mr. Monda, the learned Senior State Counsel and Mr. Gekonde, learned defence counsel opted not to make submissions under section 306 of the Criminal Procedure Code.

I have carefully considered the evidence of the six prosecution witnesses. The evidence indicate that the accused was placed at the scene of crime and that he was seen assaulting the deceased. The evidence as a whole indicate that the accused committed the offence of murder. Consequently the accused is hereby placed on his defence. The accused person and or his counsel should now inform this court if he intends to personally testify and if yes whether or not he would give sworn testimony. The accused should also indicate whether or not he would call for the testimonies of independence witnesses.

Dated and delivered at Mombasa this 29th day of July 2008.

J. K. SERGON

J U D G E

In open court in the presence of Mr. Okanga h/b for Gekonde for the Accused and Mr. Monda Learned Senior State Coun