



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
Criminal Case 55 of 2006**

REPUBLIC.....APPLICANT

-VS-

THOMAS PATRICK GILBERT CHOLMONDELEY.....RESPONDENT

R U L I N G

The accused has been charged for the offence of murder, contrary to Section 203 as read with Section 204 of the Penal Code, Cap.63, Laws of Kenya. The particulars of the offence as stated in the information are as follows:

“On the 10th May, 2006 at Soysambu Farm of the Delamere Estate within Nakuru District of Rift Valley Province, murdered ROBERT NJOYA MBUGUA.”

The accused was arraigned in court on 24th May, 2006. Consequently, the Director of Public Prosecutions viz, Mr. Keriako Tobiko made the opening remarks on 25th September, 2006 before the trial commenced in earnest.

During the trial, the prosecution called a total 38 witnesses. After carefully considering the evidence of all those witnesses, I hereby find that the prosecution has established a prima facie case against the accused to require him to be put on his defence in accordance to Section 306 (2) of the Criminal Procedure Code, Cap 75, Laws of Kenya. The accused has the option to address the court either personally or by his advocate. In the event that the accused opts to give a sworn statement, then he will be subjected to cross-examination. He also has a right to call any number of witnesses in his defence.

Secondly, the accused has a right to make an unsworn statement and call witnesses to his defence. In the event that the accused exercises the second option, then he will not be subjected to any cross-examination.

Thirdly, the accused is at liberty not to offer any evidence. In that event, the Court will call upon the Director of Public Prosecutions to sum up the case against the accused person. Consequently, the court shall then call on the accused person personally or by his advocate to address the court on his own behalf.

MUGA APONDI,

JUDGE.

25TH JULY, 2007

Ruling read signed and delivered in open Court in the presence of the accused and

.....

..... **for Republic**

.....

.....

..... **for Accused**

.....

MUGA APONDI,

JUDGE.

Dated: 25th July, 2007.