

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NYERI

HIGH COURT CRIMINAL CASE NO. 4 OF 2001

REPUBLIC PROSECUTOR

VERSUS

1. JOHN KAMAU WAINAINA)

2. HARRISON NJOROGE NGIGE) ACCUSED

RULING

The Accused persons JOHN KAMAU WAINAINA and HARRISON NJOROGE NGIGE were arraigned before this court on 31st January 2001 charged with the offence of murder the information alleging on the 13th day of February 2000 they jointly murdered Kariuki Kiboi Kamere. About 4 years down the line only one witness has been availed in proof of the prosecution case. This is Mary Nyambura Wambugu the wife of the deceased. She does not know how her husband died as she only found his body at Nyahururu Hospital mortuary. There is no evidence at all that the deceased was murdered or died of natural causes or that the Accused persons committed any act or omission that resulted in the death of the deceased. There is absolutely no evidence as to who arrested the Accused persons or how they are implicated in this matter. No prima facie case has been established against any of the Accused persons and it is pointless at this stage to place them on their defence.

Each of the Accused is therefore acquitted under section 306(1) of the Criminal Procedure Code. Each shall be set free forthwith unless otherwise lawfully held.

Dated, signed and delivered in open court this 25 th day of January 2005.

**H. M. OKWENGU
JUDGE**

