



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT GARSEN

CRIMINAL CASE NO. 01 OF 2017

REPUBLIC.....PROSECUTION

VERSUS

JAMES WAINAINA KAMAU.....ACCUSED

Coram: Hon. Justice R. Nyakundi

Mr. Mwangi for the state

Mr. Gekanana advocate for the accused person

RULING

The accused person **James Wainaina Kamau** was indicted with the offence of murder contrary to Section 203 and 204 of the Penal Code. From the brief history, it is alleged that on 15.6.2015, at Baharini village in Lamu West, the accused murdered **John Kiritu Wainaina**.

Accused being represented by **Mr. Gekanana advocate** pleaded not guilty to the charge. While **Mr. Mwangi**, prosecution counsel appeared for the state. In support of the charge, the prosecution summoned attendance of six (6) witnesses to prove the following elements:

- (1). The deceased is dead.***
- (2). That the cause of death was unlawful.***
- (3). That in causing death the perpetrators had malice aforethought.***
- (4). That the accused person participated in the murder of the deceased.***

At the close of the prosecution case, the following statutory provisions under Section 306 of the Criminal Procedure Code became relevant on review of the evidence of the seven (7) witnesses I am satisfied that in consonance with the principles in **R. T. Bhatt v R {1957} EA** the prosecution has discharged the burden of a *prima facie* case.

As a matter of Law and fact I call upon the accused person to state his defence.

DATED, SIGNED AND DELIVERED AT GARSEN THIS 15TH DAY OF SEPTEMBER 2021

.....

R. NYAKUNDI

JUDGE

In the presence of:

1. The Accused person
2. Mr. Mwangi for DPP