



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MERU**

**(CORAM: CHERERE-J)**

**CRIMINAL CASE (MURDER) NO. 25 OF 2019**

**BETWEEN**

**REPUBLIC.....PROSECUTOR**

**AND**

**DANIEL MITHIKA JOSHUA.....1ST ACCUSED**

**SELESIO NTONJA TURENCE.....2ND ACCUSED**

**SILAS MUTWIRI MUKARIA.....3RD ACCUSED**

**MARTIN GIKUNDI MUNJIA.....4<sup>TH</sup> ACCUSED**

**STANLEY MIRITI KUBAL.....5<sup>TH</sup> ACCUSED**

**SENTENCE**

1. Accused persons are jointly charged with the offence of Murder Contrary to **Section 203** as read with **Section 204** of the Penal Code. The particulars of the charge are that

**On 23<sup>rd</sup> March, 2019 at Kirama Village, Nkanda sub-location, Antuambui Location, in Igembe Sub-County within Meru County, jointly with others not before the court murdered GERALD MICHUBU**

2. In the case of **Ramanlal Trambaklal Bhatt -Vs- Republic [1957] E.A 332**, a prima facie case was defined as one on which a reasonable tribunal properly directing its mind to the law and the evidence could convict if no explanation is offered by the defence.

3. At this stage, the court is not required to decide finally whether the evidence is worthy of credit or whether, if believed, it is weighty enough to prove the case conclusively, The final determination can only properly be made when the case for the defence has been heard.

4. I have considered the evidence tendered by the eleven (11) prosecution witnesses and I am persuaded that a *prima facie* case has been established that warrants this court to call upon the Accused 1 and 2 to defend themselves.

5. Under Section 306(1) of the Criminal Procedure Code and for reasons to be given later in the judgment, Accused 3, 4 and 5 are found **NOT GUILTY** are hereby set at liberty unless otherwise lawfully held.

**DATED THIS 04<sup>TH</sup> DAY OF NOVEMBER 2021**

**WAMAE. T. W. CHERERE**

**JUDGE**

**Court Assistant - Kinoti**

**Accused 1 - Present**

**Accused 2 - Present**

**Accused 3 - Present**

**Accused 4 - Present**

**Accused 5 - Present**

**For the Accused persons - Mr. Igweta Advocate**

**For the State - Ms. Mwaniki**