

KTL.NO.476/2019

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KITUI

CRIMINAL CASE NO. 5 OF 2015

REPUBLIC.....PROSECUTOR

VERSUS

MUMO NZIOKI.....1ST ACCUSED

DAVID MBAI.....2ND ACCUSED

MWANGANGI KAKUTI.....3RD ACCUSED

MUTHUI KAKUTI.....4TH ACCUSED

BRENSON MUEKE.....5TH ACCUSED

JULIUS KYALO WAYUA.....6TH ACCUSED

RULING

1. **Mumo Nzioki, David Mbai, Mwangangi Kakuti, Muthui Kakuti, Brenson Mueke and Julius Kyalo Wayua** hereinafter, the 1st, 2nd, 3rd, 4th, 5th and 6th Accused persons respectively, were arraigned before this Court on the 3rd day of **March, 2015** having been charged with the offence of **Murder** contrary to **Section 203** as read with **Section 204** of the **Penal Code (Cap. 63), Laws of Kenya**. Particulars of the offence are that on the 9th day of **February, 2015** at **Kaumba Village, Katulani Division** in **Katulani District** within **Kitui County** jointly with others not before Court murdered **Jackson Kanyalu Kisilu** (Deceased).

2. They denied the charge and were taken through trial. At the close of the Prosecution's case the fact of death was proved by evidence adduced by the Doctor who performed the autopsy, PW6 **Doctor Mutuku**. On examination of the body he formed the opinion that the Deceased died due to cardio-pulmonary and haemothorax head injury due to trauma.

3. To be put on their defence, there ought to be evidence establishing who may have perpetrated the act that caused the death of the Deceased. Evidence adduced was that the Deceased was subjected to mob justice. Witnesses who testified identified the Accused persons as the perpetrators of the act.

4. Consequently, there is sufficient evidence requiring the Accused persons to be put on their defence pursuant to **Section 306(2)** of the **Criminal Procedure Code**.

5. It is so ordered.

Dated, Signed and Delivered at Kitui this 16th day of January, 2019.

L. N. MUTENDE

JUDGE