



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT MAKUENI**

**HCCRC NO.73 OF 2017**

**REPUBLIC.....PROSECUTION**

**-VERSUS-**

**FESTUS MUSEMBI LOKO.....ACCUSED**

**RULING**

1. **Festus Musembi Loko** the accused herein is charged with the offence of murder contrary to Section 203 as read together with Section 204 of the Penal Code.

The particulars are that the accused on **7<sup>th</sup> day of March, 2013** at Mwaani village, Mwaani Sub-location, Kilungu District within Makueni County murdered **David Mwendwa Mbithi**.

2. The prosecution only presented three witnesses and closed its case. No post mortem report was produced. Despite the failure to produce the post mortem, I am satisfied that the deceased died as a result of the injuries he suffered that night.

3. I have considered the evidence on record and the submissions by the defence.

4. **I find a prima facie case made against the accused who I hereby place on his defence under Section 306(2) Criminal Procedure Code.**

Orders accordingly.

**DELIVERED, SIGNED & DATED THIS 16<sup>TH</sup> DAY OF JULY 2019, IN OPEN COURT AT MAKUENI.**

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**H. I. ONG'UDI**

**JUDGE**