



**REPUBLIC OF KENYA**

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

**CRIMINAL DIVISION**

**HIGH COURT CRIMINAL CASE NO. 70 OF 2015**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**DAVID MURIUNGI N'ITIMBURI.....ACCUSED**

**RULING**

The accused David Muriungi N'Itumburi was charged with offence of murder contrary to section 203 as read with section 204 of the penal code.

Particulars are that David Muriungi N'Itumburi on the 27<sup>th</sup> day of April 2011 at Nyumbaitui Village Akirang'ondu Location in Igembe Sub County within Meru County jointly with others not before the court murdered Patrick Mutembei.

PW1 the wife of deceased raised alarm while accused, his wife, Joaninah and 3<sup>rd</sup> person Kobia attacking the deceased in the morning, tied his hands, legs and neck to a tree and started beating him. PW2, PW3, PW4 and PW5 who were picking miraa nearby responded to alarm and tried to restrain the accused but he was so harsh saying the deceased deserved to be beaten and didn't need their pleas and they deceased to leave.

Later one of them went back and untied the deceased and help PW1 take him to the house. Later in the night, PW1 called the deceased person's friend when she saw his condition got worse and the neck swelling and they helped take him to hospital.

The nursing home admitted him but he was later transferred to Meru Teaching Referral Hospital where he died while undergoing treatment.

From the evidence on record, the court finds that the prosecution has established a prima facie case for offence of murder. The accused has a case to answer and is placed on defence.

**HON. A. ONG'INJO**

**JUDGE**

**RULING SIGNED, DELIVERED AND DATED THIS 22<sup>ND</sup> DAY OF NOVEMBER, 2018**

**IN THE PRESENCE OF:**

C/A – Kinoti

Mrs. Mwathi for the State

Mr. Mutegei for the accused - Mr. Igweta Advocate H/B

Accused – Present in Person

**Court** – Section 211 C.P.C explained with.

**HON. A. ONG'INJO**

**JUDGE**

**Mr. Igweta** – Accused will give sworn evidence.

**Accused** – I will give unsworn statement. I have 2 witnesses. They are not in court.

**Order** – Defence hearing on 17/1/2019.

**HON. A. ONG'INJO**

**JUDGE**

22/11/2018