



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT AT KERICHO**  
**CRIMINAL CASE NO.55 OF 2012**

**REPUBLIC.....PROSECUTION**

**VRS**

**PETER NYAKUNDI KIMWENO.....1ST ACCUSED**

**ISAAC BARASA.....2ND ACCUSED**

**WYCLIFFE OPIASO.....3RD ACCUSED**

**RULING**

- The three accused person are facing a charge of murder contrary to **section 203** as read with **section 204** of the **Penal Code**.

- The prosecution called twelve (12) witnesses to state their case.

The evidence before this court is to the effect that it is 1<sup>st</sup> accused who incriminated the 2<sup>nd</sup> and 3<sup>rd</sup> accused. Besides this, there is no other evidence against them.

- There was no statement under inquiry or a charge and cautionary statement recorded from the 1<sup>st</sup> accused to confirm the allegations against 2<sup>nd</sup> and 3<sup>rd</sup> accused.

- My finding is that there is no evidence against 2<sup>nd</sup> and 3<sup>rd</sup> accused to make this court place them on their defence.

- They are both (i.e 2<sup>nd</sup> and 3<sup>rd</sup> accused) acquitted under section 306 (2) of the Criminal Procedure Code.

As for the 1<sup>st</sup> accused, I find sufficient evidence establishing a *prima facie* case against him. I hereby place him on his defence under section 306 (2) of the Criminal Procedure Code.

Signed, dated and delivered this 2<sup>nd</sup> day of March, 2016.

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**H. I. ONG'UDI**

**JUDGE**