

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KITUI

CRIMINAL CASE NO. 11 OF 2016

REPUBLIC.....PROSECUTOR

VERSUS

MARTIN SILA MULI.....ACCUSED

R U L I N G

1. **Martin Sila Muli**, the Accused, is 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 **6th** day of **April, 2012** at **Kaangwa Village, Kibwea Sub-location** in **Kibwea Location** in **Mutomo District** within **Kitui County** he murdered **Maria Sila** (deceased).

2. At the close of the Prosecution's case the fact of death was established by evidence of PW2 **Dr. Patrick Mutuku** who performed an autopsy on the body of the Deceased. He concluded that the cause of death was severe head injury secondary to assault. PW4 **Rebecca Mawia Sila** an eye-witness identified the Accused as the one who hit the Deceased with a stool on the head causing her the injury she sustained.

3. In the case of **Ramanlal Trambklal Bhatt vs. Republic** it was held that a *prima facie* case is one on which a reasonable tribunal properly directing its mind to the law and the evidence could convict if no evidence in rebuttal is adduced by the defence. Looking at the evidence adduced in totality, it is apparent that a *prima facie* case has been established warranting the Accused being put on his defence pursuant to the provisions of **Section 306(2)** of the **Criminal Procedure Code**.

4. It is so ordered.

Dated, Signed and Delivered at Kitui this 18th day of August, 2016.

L. N. MUTENDE

JUDGE