



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 30 OF 2012**

**REPUBLIC.....PROSECUTOR**

**V E R S U S**

**JULIUS MUTEMI KAMOTHO**

**GIDEON MUTIE MASILA**

**MUTINDA KIMOTHO..... ACCUSED**

**RULING**

At the close of the prosecution case, the defence counsel opted not to make submissions on a case to answer. The Prosecuting Counsel however made submissions asking the court to put each of the accused persons on their defences. As a consequence the defence counsel also made submissions in response thereto.

I have perused the evidence on record. It is certainly a matter based on circumstantial evidence. It is admitted on both sides that an inquest had earlier been held in the matter resulting in the present criminal proceedings, after the inquest court made its directions.

At this stage, the prosecution is merely required to establish a prima facie case. A prima facie case is a case where a reasonable court may on the evidence on record convict an accused person. In my view the prosecution have done so and as such I find that each of the accused has a case to answer I thus hereby put each of the accused persons on their defence. I will now proceed to explain to each of the accused the options available to him in law regarding his defence.

Dated at Garissa this 22<sup>nd</sup> September 2015.

**GEORGE DULU**

**JUDGE**