

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KITUI

CRIMINAL CASE NO. 67 OF 2015

REPUBLIC.....PROSECUTOR

VERSUS

TITUS KASELA MUSYOKA.....ACCUSED

R U L I N G

1. **Titus Kasela Musyoka** hereinafter “the accused” is charged with the offence of **Murder** contrary to **Section 203** as read with **Section 204** of the **Penal Code**. Particulars of the offence are that on the **8th** day of **December, 2011** along **Tulia – Migwani Road** near **Kwambelu Shopping Centre, Kangondi Location** within **Kitui County**, murdered **Jackson Muthangya Malingi** (deceased).

2. The case as presented by the Prosecution is that on the **8th December, 2011**, the accused and deceased rode as pillions on PW1, **Shadrack Muema Muswa’s** motor cycle. After dropping them off at a designated place, the accused person called and informed him that he had been knocked by the deceased. He went back and found him bleeding. He took him to the clinic and advised him to report the matter to the police station. The following day, the body of the deceased was found lying on the side of the road with injuries on the left hand and a stab wound on the neck.

3. The fact of death of the deceased was proved by evidence adduced by PW4, **Dr. Patrick Mutuku** who performed the autopsy and formed an opinion that the cause of death was cardio-pulmonary collapse due to massive internal haemorrhage due to a punctured right lung.

4. The accused who had an altercation with him soon after they were dropped off by PW1 was arrested and charged.

5. At the close of the Prosecution’s case, I find a *prima facie* case having been established that requires the accused person to defend himself. Consequently, he will be required to address the court pursuant to the provisions of **Section 306 (2)** of the **Criminal Procedure Code**.

6. It is so ordered.

Dated, Signed and Delivered at Kitui this 22nd day of October, 2015.

L. N. MUTENDE

JUDGE