



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO. 26 OF 2012

REPUBLIC.....PROSECUTOR

VERSUS

JOHN WAWERU KAGIRI ALIAS JONO..... ACCUSED

RULING

The accused, **John Waweru Kagiri** alias **Jono** is facing trial for the murder of **Nicholas Kyalo Kivuva**. He is alleged to have committed the offence on 25th day of February 2011 at Kibera Line Saba in Lang'ata District within **Nairobi County**. He denied the charge when arraigned in court on 23rd April 2012.

The prosecution has called a total of 7 witnesses. At the close of the prosecution's case both the prosecution and the defence filed written submissions which they subsequently highlighted.

The prosecution has urged the court to find that the accused has a case to answer. It has summarized the evidence presented in court by the prosecution witnesses. It is the prosecution's submission that the accused was seen by PW1 stabbing the deceased. PW1 not only gave an eye witness account of the incident but also knew both the accused and the deceased previously.

The defence on its part has filed submissions urging the court to acquit the accused for want of sufficient evidence. It is their submission that the prosecution's case is built on mere suspicion not supported by evidence and that no effort was made to conduct a credible investigation and prosecution.

Having carefully considered and analysed all the evidence on record as well as the submissions made by both the prosecution and the defence, I find that the prosecution has established a *prima facie* case to warrant putting the accused on his defence. I find the accused John Waweru Kagiri alias Jono has a case to answer. I require him to make his defence as per **Section 306 of the Criminal Procedure Code**.

Ruling delivered at Nairobi this 27th day of May, 2014

R. LAGAT - KORIR

JUDGE

In the presence of:

.....: Court clerk

..... : Accused

.....: For the Accused

.....: For the State