



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT KISII

CRIMINAL CASE NO. 68 OF 2009

REPUBLIC ..... PROSECUTOR

**-VERSUS-**

GERALD OMARE .....1<sup>st</sup> ACCUSED

ROBERT MIYIENDA OMBONGI .....2<sup>nd</sup> ACCUSED

NICODEMUS ARASA NYAKOIRO.....3<sup>rd</sup> ACCUSED

RULING

I have carefully read and considered the evidence so far adduced by the prosecution and I am satisfied that it is sufficient to call upon the accused to defend themselves. Accordingly, it is my ruling that the prosecution have prima facie, established a case against each accused to warrant them being placed on their defences and I so rule. Pursuant to section 306 (2) of the **Criminal Procedure Code**, I will now invite the accused to indicate to me how they intend to defend themselves. They are reminded nonetheless that they can do so by giving a sworn statement, unsworn statement or even elect to keep quite. In the event that they elect to give sworn statements, they will be liable to cross-examination by the prosecution. However if they choose to give unsworn statements or to keep quiet, they will not open themselves up to cross-examination. In all cases though, they are entitled to call witness.

**Ruling dated, signed and delivered** at Kisii this 30<sup>th</sup> day of May, 2011.

**ASIKE-MAKHANDIA**  
JUDGE