



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT KISII**  
**CRIMINAL CASE NO. 36 OF 2009**

**REPUBLIC.....PROSECUTOR**

**-VERSUS-**

**JENES BIKERI ONDIEKI MOCHA.....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 himself. Accordingly, it is my ruling that the prosecution have prima facie established a case against the accused to warrant the accused being placed on his defence 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 he intends to defend himself. He is reminded nonetheless that he can do so by giving a sworn statement, unsworn statement or even keep quite. In the event that he elects to give a sworn statement, he will be liable to cross-examination by the prosecution. However if he chooses to give unsworn statement or keep quiet, he will not open himself up to cross-examination. In all cases though, he is entitled to call witness.

**Ruling dated, signed and delivered** at Kisii this 23<sup>rd</sup> May, 2011.

**ASIKE-MAKHANDIA**

**JUDGE**