



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT KIAMBU**

**CRIMINAL CASE NO. 5 OF 2017**

**BETWEEN**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**JOSEPHINE NJERI KURIA.....ACCUSED**

**RULING**

1. **JOSEPHINE NJERI KURIA** is charged in this case with the offence of murder. The prosecution called a total of seven witnesses before closing its case. This Court is required, at this stage to consider whether the accused has a case to answer as provided under **Section 306** of the **Criminal Procedure Code Cap. 75**.

2. In the case **REPUBLIC VS. JOSEPH SHITANDI & ANOTHER (2014) eKLR**, it termed a case to answer as:-

**“A case to answer is a case where if the accused keeps quiet, the evidence of the prosecution should be such that a conviction will result.”**

3. In this case, I am satisfied that the evidence of the prosecution does suffice for the accused to be called upon to defend herself. Accordingly, as per **Section 306(2) of Cap 75** the accused is informed that she has a right to address the court, either personally or by her advocate and to give evidence on her own behalf or to make unsworn statement and call witnesses in her defence.

4. The accused is now called upon to make her election on how she shall present her defence.

**RULING DATED AND DELIVERED AT KIAMBU THIS 6<sup>TH</sup> DAY OF JULY, 2021**

**MARY KASANGO**

**JUDGE**

Coram:

Court Assistant: Ndege

Accused: Absent

For accused: Mr. Njehu

For DPP: Ms. Kathambi

**COURT**

RULING delivered virtually.

**MARY KASANGO**

**JUDGE**