



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**MILIMANI LAW COURTS**

**HIGH COURT CRIMINAL CASE NO 50 OF 2014**

**REPUBLIC .....PROSECUTOR**

**VERSUS**

**RODGERS KUTOSI alias PAUL KUTOSI RODGERS .....ACCUSED**

**RULING**

1. The accused **RODGERS KUTOSI** alias **PAUL KUTOSI RODGERS** is charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code the particulars of which were that on the 5<sup>th</sup> day of June, 2014 at Gachoka village Kiganjo location of Gatundu South Sub County within Kiambu County unlawfully murdered Lydia Mukimba.
2. He pleaded not guilty and to prove its case against him the State called a total of nine witnesses and at the close of the prosecution case the defence opted not to make any submission on whether the prosecution had made up a case to enable the court place the accused on his defence and the prosecution too left it to the court to decide based on the evidence on record.
3. At this stage the court is called upon to decide whether a case has been made out by the prosecution to justify putting the Accused person on his defence as was stated in **REPUBLIC v JAGJIVAN M. PATEL & Others** and in **RAMANLAL TRAMBAKLAL BHATH v REPUBLIC [1957] EA 332**.
4. From the evidence on record and taking note of the accused rights under the Criminal Procedure Code and the Constitution which include a right not to offer any explanation, I am satisfied that the prosecution has made up a prima facie case to enable the accused be placed on his defence which I hereby do. The accused is therefore informed of his right under **Section 306(2)** of the Criminal Procedure Code and shall therefore choose how he intends to defend himself through the advice of his counsel.

DATED, SIGNED and DELIVERED at Nairobi

this 9<sup>th</sup> day of **November, 2016**.

.....

**J. WAKIAGA**

**JUDGE**

**In the presence of:-**

*Miss Mwaniki for the State*

*Mr. Ndungu for Miss Ekiri for the Accused*

*Accused present*

*Court clerk – Tabitha*