**LUKIDI THE REPUBLIC OF UGANDA**

**IN THE HIGH COURT OF UGANDA AT MASAKA**

**HCT-06-CR-SC-0035 OF 2013**

**UGANDA........................................................................................................ PROSECUTOR**

**VERSUS**

**LUKIDI SAMULA**

**NAHEBWA TAMUSONI**

**NAKYOWA EASTER GRACE.................................................................................ACCUSED**

**RULING**

**BEFORE: Hon. Lady Justice Margaret Tibulya.**

This is a ruling on a submission of no case to answer. The accused stands charged with the murder of NAKIRANDA EASTHER.

The brief facts that in the night of 28th of September 2012 the deceased was murdered. She was found dead the next morning. The prosecution evidence was that A1 (Lukidi) and A3 (Nakyowa) had been having quarrels with the deceased and it is on this basis that they were charged with her murder. A2 (Nahebwa) had just come into that area and was homeless. He was also charged on suspicion that he was involved in the murder.

At the close of the prosecution case Counsel for the accused submitted that the state had not adduced sufficient evidence to warrant the accused to make a defence. A submission of no case to answer will be upheld inter-alia when a major ingredient of the offence has not been proved.

**THE INGREDIENTS FOR AGGRAVATED ROBBERY.**

1. Death of a person,
2. The death was unlawful,
3. There was malice aforethought,
4. Participation of the accused.

There is no doubt that **Nakiranda** died, and that she was murdered. Her death was unlawful. There cannot be doubt that whoever killed her had malice aforethought. The only issue is whether the accused persons participated in her murder.

All state witnesses were clear that the accused were arrested only because they were suspected to have killed the deceased. Suspicions however strong do not amount to evidence.

I did not find evidence to ground a decision to require the accused persons to make their defence. I accordingly up- hold the submission of no case to answer and acquit each accused of the offence of murder. They be discharged forth-with.

Court; ruling read in open court.

**Margaret Tibulya**

**28th April 2016**