



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BOMET

CRIMINAL CASE NO.2 OF 2017

REPUBLIC.....PROSECUTION

VERSUS

WOO.....ACCUSED

RULING

1. The accused in this case, WOO was charged with murder contrary to section 203 as read with section 204 of the Penal Code.
2. The particulars of the charge are that on 26/12/2016 at Bomet Township within Bomet County the accused person murdered TIMOTHY KIPLANGAT.
3. M/s Kenduiwa Advocate was appointed to represent the accused person but the accused person was not able to take plea as the Doctor stated after examining the accused person that he lacked insight and memory and was poorly oriented in time as a result of recent head injury.
4. The Doctor stated in the report dated 16/1/2017 that the accused person's injuries were likely to improve with time but at that time of the examination, the accused person was not fit to stand trial.
5. The accused person was subsequently committed to Nakuru Provincial Hospital for examination by a neurosurgeon. From Nakuru General Hospital he was subsequently referred to Nairobi for treatment but no reports were availed to court.
6. On 22/9/2017, the court ordered that a close relative of the accused person be available for an interview with Dr. Njau, a consultant psychiatrist.
7. On 14/11/2017, the court ordered for a pre-bond report which was filed on 29/11/2017. The report stated that the accused person who is aged 37 years started smoking bhang and taking alcohol many years ago after having dropped out of school in class 3.
8. The report also stated that the accused person raped his cousin and was jailed for 7 years and upon being released from custody he went to Bomet where he committed the offence he is currently facing.
9. The report stated that there is nobody willing to stand surety for the accused person and further that he is a flight risk.
10. I find that there are several reports filed in this case to the effect that the accused person is not fit to stand trial. Section 164 of the Criminal Procedure Code provides as follows: -

“164. whenever a trial is postponed under Section 162 or Section 280, the court may at any time, subject to the provisions of Section 163, resume trial and require the accused to appear or brought before the court, whereupon, if the court considers the accused to be still incapable of making his defence, it shall act as if the accused were brought before it for the first time.”

13. I accordingly find that the trial of the accused person was postponed and he was taken to a mental institution but he is unfit to stand trial.

14. The accused person cannot be released on bond as he is not suitable and he is likely to endanger the lives of his relatives. He had previously been jailed for 7 years for raping his cousin.

15. I find that the court can still order the accused to be taken for mental examination, if the situation justifies such an order. I direct that the matter be mentioned at Bomet High Court for further directions

Delivered and signed at Bomet this 6th day of August 2020.

A. N. ONGERI

JUDGE