

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAKAMEGA

CRIMINAL CASE NO. 44 OF 2014

REPUBLICPROSECUTOR

VERSUS

SHABIR WACHIRA WESONGA.....ACCUSED

RULING

1. On 23rd April, 2019, this court gave the prosecution a warning that if it did not produce its remaining witnesses, it would have to close its case. Mr. Ngetich, prosecution counsel has pleaded with the court to give the prosecution a last chance to avail the witnesses, the reason being that this would serve the interests of justice. The prosecution has explained that the investigating officer is attending his second promotional interview today, the first one having been undertaken on Tuesday, 23rd, April. Counsel argues that granting of an adjournment today would serve the interests of justice.

2. I have carefully considered that plea against Mr. Luchivya's objection to the same. I am aware that in this matter, there is the accused person as well as the victim's family which is also crying out for justice. On reconsideration of my orders of 23.04.2019 and in the interests of justice, and also noting that he accused person is out on bond, I am prepared to give this last chance to the prosecution to avail the two remaining critical witnesses. Once these witnesses testify, the court will have all the evidence before it for the purpose of making a ruling and later a judgment in the matter based on full information.

3. Accordingly, I set aside my order of 23.04.2019 requiring the prosecution to close its case today if it had no witnesses and to grant them a final adjournment. It is so ordered.

Ruling delivered, dated and signed at Kakamega in open court this 26th day of April, 2019

RUTH N. SITATI

JUDGE

In the presence of :-

Mr. Ngetich.....for the state

Mr. Luchivya for Mr. Odongo.....for accused

Polycap Mukabwa.....Court assistant