



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

CRIMINAL APPEAL NO. 67 OF 2019

REPUBLIC.....APPELLANT

VERSUS

CALVIN OUMA MAGARE AND 18 OTHERS.....RESPONDENT

(Being an appeal by the State against the refusal by the trial court to grant an

adjournment in Siaya PMCR Case No. 868 of 2018 dated 3rd December, 2018

before Hon T.M. OLANDO – SRM).

RULING

1. The appeal herein was filed on 4th December, 2018 by the prosecution challenging the order by the SRM Hon. T. Olando refusing to grant an adjournment and to withdraw the charges against 18 accused persons under section 87 (a) of the Criminal Procedure Code. This was on 3rd December 2018 in Siaya *PMCR Case No. 868 of 2018*.
2. After the trial court delivered the ruling rejecting the application for adjournment and a withdrawal of the charges under section 87(a) of the Criminal procedure Code as requested by the prosecution, the court set a date for a ruling on a case to answer and on 18th December 2018 the court delivered a ruling making a finding that the accused persons had no case to answer and acquitted them under section 210 of the Criminal Procedure Code.
3. As the appellants herein did not seek for stay of the proceedings of the trial court pending the hearing and determination of this appeal, no doubt the appeal has been overtaken by events.
4. The prosecution now at the instance of the court applies to withdraw this appeal. I find the application for withdrawal of the appeal merited as the appeal is spent.
5. This appeal is accordingly marked as wholly withdrawn.
6. The Appeal file is hereby marked as closed.
7. Orders accordingly.

Dated, Signed and delivered this 30th day of October, 2019.

R.E. Aburili

JUDGE

In the presence of:

Mr. Ngetich Prosecution Counsel for the Appellant

N/A for the Respondents

