



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO.56 OF 2015**

**REPUBLIC.....PROSECUTION**

**-VERSUS-**

**STEPHENE PARSOLOI SIRE.....ACCUSED**

**RULING**

1. Stephene Parsoloi Sire faces a charge of Murder contrary to Section 203 as read with Section 204 of the Penal Code. The particulars of the offence are that, "On the 3<sup>rd</sup> day of July 2015 within Ilpashire village in Transmara west sub-county in Narok County, murdered William Ngado Sire". The prosecution was to call eight witnesses.
2. The accused person denied the offence. The plea was taken on the 2/12/2015 and the matter proceeded to hearing. The prosecution called their first witness on the 22/3/2017. Pw1 SAMMY TABOI NAMISHERE an assistant chief testified that he knows the accused, who lives in my area. He also knows the deceased William Ngadosiri. That in April 2015, the deceased went to his home with another boy to my home and identified themselves to him as the sons of one MUSA SIRI. They told that they wanted to migrate into a shamba in my sub-location. He asked them if their father was aware of their intention and they were not very clear about it. He asked them to come with their father so that the land could be sub-divided. The mother of the deceased lived on the said land at that time. The 2 men did not go back to him. On 3/7/2017 he received a report that the deceased and his brother had gone to the land that they had said they wanted to occupy and that a fight had erupted and William was killed but he did not get the body at the scene. During cross-examination he denied being at the murder scene at the time the same took place.
3. This was the only witness the prosecution called to support their case against the accused. Thereafter the prosecution sought several adjournments to call the remaining witnesses. After being given several chances to do so from the 22/3/2017, this court gave the prosecution a last adjournment on the 28<sup>th</sup> June 2018. I declined to grant another adjournment on the 24<sup>th</sup> September 2018 and the prosecution closed their case. Mr. Kanyangi advocate for the accused asked the court to acquit the accused as there was no evidence adduced to link the accused to the offence of murder as charged. The prosecution chose to rely on the evidence on record which is the evidence of Pw1.
4. It is the burden of the prosecution to adduce evidence to support their case. The only evidence adduced through Pw1 does not link the accused to the murder of William Ngado Sire. Pw1 did not witness the murder nor was he informed who murdered the deceased. Murder is a serious offence and for the court to find that there is a prima facie case that would necessitate to put the accused on his defense there must be sufficient evidence to do so. The prosecution on the evidence adduced, has failed to adduce any evidence to link the accused to the murder of William Ngado Sire. I therefore find that the accused had no case to answer. He is acquitted of the charge of Murder; he is free to go unless lawfully held.

**Dated signed and delivered this 25<sup>th</sup> day of September 2018**

**R. E. OUGO**

**JUDGE**

**In the presence of;**

Accused Present

Mr.Otieno For the State

Mr. Kanyangi For the Accused

Ms Rael Court/clerk