



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT GARISSA**  
**CRIMINAL CASE NO. 2A OF 2016**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**HAWA SIYAT DIRIYE..... ACCUSED**

**RULING**

The accused herein HAWA SIYAT DIRIYE has been charged in this court with murder contrary to Section 203 as read with Section 204 of the Penal Code in that on 7<sup>th</sup> July 2015 at Dagahaley Refugee Camp in Dadaab Sub-county within Garissa County unlawfully murdered AHMED MAMBO MOHAMED.

She was brought to court on 30/3/2016, after the information containing the charge was filed on the same day.

Since then the case has not progressed.

The accused has been taken to Mathare Hospital for mental assessment and treatment due to the circumstances of the case wherein she actually killed her own husband after the death of her child a few days after she delivered.

This court has now received a counseling report filed on 10<sup>th</sup> July, 2017 from the Refugee Consortium of Kenya signed by Rhoda Wagaki a Psycho Social Counselor, which indicates that she is mentally absent minded and needs someone she trusts talk to.

Mr. Okemwa the Principal Prosecuting Counsel has also requested that permission be granted for the discontinuance of the criminal proceedings against the accused, as the key witnesses in the case cannot be availed. The mother, a key witness came to court on 24/7/2017 and said she was now being taken to Somalia. The grandmother, MUMINA, a key witness had died. Abubakar a key witness had also moved to Somalia. The Prosecuting Counsel stated also that he got in touch with the investigating officer NIXON OKWIRI who had written a letter dated 27/5/17 confirming that witnesses had moved to Somalia, to support the request for discontinuance of the proceedings.

Ms. Nganga for the accused did not object to the request of the State. Counsel stated that the UN had support services for such women at Dadaab Refugee Camp – and suggested that the court orders her to be placed there.

In the above circumstances, I am of the view that permitting the discontinuance of the criminal proceedings herein is the most viable option. I thus allow the request of the State and permit the discontinuance of the criminal proceedings herein against the accused person under Section 25 of the Office of Director of Public Probations Act 2012.

The criminal proceedings herein are thus discontinued and the accused is discharged. However, the accused will be handed over to the Refugee Consortium of Kenya who will take her to Dadaab Reguee Camp UN facility, for psycho-social counseling support and treatment. It is so ordered.

**Dated and delivered at Garissa on 27<sup>th</sup> July, 2017.**

**GEORGE DULU**

**JUDGE**