



**REPUBLIC OF KENYA**

**IN THE HIGH COURT AT HOMA BAY**

**CRIMINAL CASE NO. 35 OF 2012**

**BETWEEN**

**REPUBLIC.....PROSECUTOR**

**AND**

**KENNEDY OCHIENG BONYO alias BROTHER.....1<sup>ST</sup> ACCUSED**

**OWEN ZADOCK alias NYAKWAR DANI.....2<sup>ND</sup> ACCUSED**

**RULING**

1. The accused, **KENNEDY OCHIENG BONYO alias BROTHER** and **OWEN ZADOCK alias NYAKWAR DANI** (“the accused”) were charged with the murder of **THOMAS MBOYA OKEYO** which took place on 5<sup>th</sup> November 2011 at Central Karachuonyo Location, North Rachuonyo District within Homa Bay County contrary to **section 203** as read with **section 204** of the *Penal Code (Chapter 63 of the Laws of Kenya)*.
2. The prosecution called only two witnesses; Michael Nyakato Odenyo (PW 1) and George Otieno Obade (PW 2). The collective effect of their testimony was that on 5<sup>th</sup> November 2011, the deceased was found dead after drinking at a *chang’aa* den and his body brought to PW 1’s home by unknown persons. There was no evidence connecting the accused to his death or even evidence of the cause of death.
3. I hasten to note that due to the delay in prosecuting the matter, I directed the prosecution to close its case after I rejected its application for adjournment.
4. In these circumstances, I find that the accused have no case to answer. I accordingly enter a verdict of not guilty against **KENNEDY OCHIENG BONYO alias BROTHER** and **OWEN ZADOCK alias NYAKWAR DANI** under **section 306(1)** of the *Criminal Procedure Code (Chapter 75 of Laws of Kenya)*. The accused are acquitted and set free unless otherwise lawfully held. The sureties herein are discharged.

**DATED and DELIVERED at HOMA BAY this 24<sup>th</sup> day of May 2016**

**D.S. MAJANJA**

**JUDGE**

Mr Ogutu instructed by Nyauke and Company Advocates for the 1<sup>st</sup> accused.

Mr Osoro instructed by Osoro and Company Advocates for the 2<sup>nd</sup> accused.

Ms Ongeti, Prosecution Counsel, instructed by the Office of the Director of Public Prosecutions, for the State.