

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
CRIMINAL CASE NO. 9 OF 2016

REPUBLIC.....PROSECUTOR

VERSUS

FAZUL SWALE OKOTH alias MAGWAYA.....ACCUSED

RULING

Fazul Swale Okoth alias Magwayy, the accused, is charged with murder contrary to section 203 as read with section 204 of the Penal Code. The particulars of the charge are that on the 28th day of November 2015 at about 4.00pm at Kenya Cinema along Moi Avenue within Nairobi County jointly with another not before the court murdered Hassan Lokorachi (the deceased). The accused pleaded not guilty to the charge. He is represented by Mr. Ogada.

Ten witnesses have testified in support of the prosecution case. Their evidence is that on 28th November 2015 the accused person jointly with one Antony fought with the deceased over a disagreement on parking vehicles. All the three were parking boys operating at Kenya Cinema parking area. The deceased sustained injuries for which he was hospitalized. He died while in hospital on 25th December 2015. Dr. Andrew Kanyi Gachie (PW7) told the court that the cause of death was head injury due to blunt force trauma.

I have carefully considered the evidence of the prosecution. The accused was implicated in the fight that led to the injuries sustained by the deceased and from which he died. It is my finding therefore that the prosecution has made out a prima facie case against the accused person. Consequently, this court finds that the accused person has a case to answer and is hereby placed on his defence. He is informed of his rights under section 306 (2) of the Criminal Procedure Code. It is so ordered.

Dated, signed and delivered this 28th day of July 2016.

S. N. Mutuku

Judge

In the presence of:

Ms Magoma for the prosecution

Mr. Ogada for the accused

Mr. Fazul Swale Okoth, the accused

Mr. Daniel Ngumbi, court clerk