



REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA

AT VOI

CRIMINAL CASE NO 2 OF 2015

REPUBLIC

VERSUS

WISDOM MWALUMBI MWASHINDO ALIAS MWANZIA

JUDGMENT

INTRODUCTION

1. The Accused person, Wisdom Mwalumbi Mwashindo alias Mwanzia, was charged with murder contrary to Section 203 as read with Section 204 of the Penal Code Cap 63 (Laws of Kenya). The particulars of the offence were that :-

**“On the 24<sup>th</sup> day of February 2013 at Canaan Village within Taita Taveta County, jointly with others not before the court murdered JOHN NGAO.”**

2. This matter was initially heard by Muya J. He took the evidence of Elijah Mwavisu Mwandawiro (hereinafter referred to as “PW 1”), Jeremiah Mwavisu (hereinafter referred to as “PW 2”), Samuel Mwandawiro Mganga (hereinafter referred to as “PW 3”), Number 53920 Corporal John Nthiga (hereinafter referred to as “PW 4”) and Number 55617 Sergeant Patrick Amwayi (hereinafter referred to as “PW 5”).

3. This court took over conduct of the matter on 8<sup>th</sup> October 2015 and continued from where the said Learned Judge had reached after both the Accused person and his counsel confirmed to the court that it could proceed accordingly.

4. The Prosecution called a total of eight (8) witnesses to demonstrate the following ingredients of murder:-

a. **Proof of the fact and cause of death of the deceased;**

b. **Proof that the deceased met his death as the result of an unlawful act or omission on the part of the accused; and**

c. **Proof that the said unlawful act or omission was committed with malice aforethought.**

5. On 21<sup>st</sup> June 2016, this court found that a *prima facie* case had been established against the Accused

person to warrant him being put on his defence. His defence case was heard on 30<sup>th</sup> June 2016. At the conclusion of his case, he filed Written Submissions dated 27<sup>th</sup> July 2016 on 28<sup>th</sup> July 2016. The State filed its Written Submissions dated 19<sup>th</sup> July 2016 on even date.

### **THE PROSECUTION'S CASE**

6. PW 1 was the father to John Ngao (hereinafter referred to as the "Deceased"). It was his testimony that on 25<sup>th</sup> February 2013 at about 7.00 pm, he was in his house at Mbololo when he was informed that the Deceased was killed in a bar and that the Accused person had been arrested. In his Cross-examination, he admitted that he was not present during the incident that led to the Deceased's death.

7. PW 2 was in Standard Eight (8) at the material time. His age was not given. He said that on 14<sup>th</sup> February 2013, he was at Canaan Shopping Centre at about 3.00 pm when he saw the Deceased being beaten. He did not know all the people who were beating him but he said that he recognised the Accused person and one Kalonzo as having been part of the group. He left after the fight was stopped and did not witness the Accused person being taken to the forest.

8. In his Cross-examination, he stated that he did not mention in his Witness Statement that the Accused person was part of the group that was beating the Deceased at the material time. During his Re-examination, he reiterated that he saw the Accused person beat the Deceased person and clarified that he did not personally record his Written Statement.

9. PW 3 said that he was the Deceased's cousin. He confirmed that he identified the Deceased at Voi District Hospital where the postmortem examination was conducted.

10. On his part, PW 4 said that he was attached to Voi Traffic Base and performed investigation duties. He testified that on 24<sup>th</sup> February 2013, he had gone for lunch at a butchery at Canaan Shopping Centre which was owned by a person known as Njuguna (PW 6 herein). It was his testimony that the Accused person, who was armed with a knife, and others came shoving and pushing each other. They all appeared to be drunk. He called the person who was being pushed and upon enquiring from him what was going on, he told him that the Accused person wanted to kill him. He took the knife from the Accused person but returned it to him after tempers cooled down. The said knife was tendered in court as evidence.

11. He added that the Deceased went his way but that the Accused person ran after him. He said that the Accused person came back after about forty (40) minutes and said that they had accomplished their mission and wanted a tyre to set somebody on fire. He said that PW 6 called him as he was going back to the police station and informed him that the Accused person had killed the Deceased person.

12. In his Cross-examination, PW 4 stated that the Accused and Deceased persons were threatening to cut each other's necks and that the Accused person whose name he had given as Mwamburi was the one who handed him the knife. He admitted that he did not go to the scene of murder as he was not the Investigating Officer and that in his Witness Statement, he did not mention that the Accused person had said that he had accomplished his mission. In his Re-examination, he stated that he did not know the names of the youths who were involved in the fight.

13. PW 5 was the Investigating Officer from Voi Police Station. He reiterated what the other witnesses had told him. He said that on 24<sup>th</sup> February 2013, the OC Crime informed him about a fight at Canaan Trading Centre involving the Deceased, the Accused person and four (4) others who had not yet been arrested but that PW 4 had separated them.

14. He said that the dispute was about money which the Deceased person had gone to demand while carrying a knife. He identified the Accused person at the dock. He testified that they visited the scene of crime and found that the Deceased person's head had been severed from his body and his body set on fire. He averred that he did not recover the murder weapon at the scene.

15. During his Cross-examination, he said that he did not see the Accused person proceed to the scene of the murder. On being re-examined, he stated that the Deceased person's body was found two hundred (200) metres from the Nairobi- Mombasa Highway.

16. PW 6 was Jackson Njuguna Kagwara, the person who PW 4 said owned a butchery at Canaan along Mombasa- Nairobi Highway. He said that he had known the Accused and the Deceased persons for over five (5) years and two (2) years respectively. He testified that on the material date, he was with PW 4 at about 3.00 pm when he saw the Accused, the Deceased, Kilonzo, Mwamburi and other youth fighting. He later learnt that it was a fight over Kshs 20/= that the Accused person owed the Deceased. He said that PW 4 took the knife from the Deceased person and that after they stopped the fight, the Deceased crossed the road and ran towards the forest. However, the Accused person, Kilonzo and Mwamburi pursued him. He said that the other youth were assisting the Accused person in fighting the Deceased.

17. He said that Mwamburi came back from the forest and asked for paraffin. He did not get the paraffin but took some mosquito nets and went back to the forest. He said that he heard Mwamburi say **"Tumemaliza mission"** which loosely translated in English was **"We have accomplished our mission."** His evidence was that he saw smoke from the forest and from the way Mwamburi was behaving when he came back, he knew something bad had happened and decided to call the police.

18. He stated that when the police came, he accompanied them to where there was smoke and they found the Deceased person's severed body and beside it was fire. He contended that he saw the Accused person at Canaan on that day at about 4.00 pm but did not see Kilonzo and Mwamburi again. During his Cross-examination, he said that he was certain that he saw the Accused person follow the Deceased person into the forest and that he was the one who directed the police officers who arrested him to the scene of crime.

19. PW 7 was Number 93081 PC Shem Asher, a Forensic Crime Investigator appointed by the Attorney General. He adduced the photos of the Deceased at the scene of crime and a Certificate confirming that he is the one who prepared and processed the prints as evidence in this case. He confirmed that there was a burnt bush beside the Deceased's body.

20. Dr Walid Marei Ahmed who was PW 8, tendered in evidence the Postmortem Report in respect of the Deceased person. He averred that the Deceased's head had been severed from the body. He also had deep cuts on the hand, a compound fracture of the tibia-fibula and ankle and that the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> digits of the right hand had been chopped off. It was his evidence that the cause of death was cardio-pulmonary arrest secondary to head separation as a result of assault (murder).

21. In his Cross-examination, he stated that it was difficult to tell if the other injuries occurred before the decapitation which caused the Deceased person's death. He was emphatic that the compound fracture could not cause bleeding leading to death. He said that he could not confirm from the injuries that the Deceased person sustained the number of people who were involved in the said crime.

### **THE DEFENCE CASE**

22. The Accused person adduced evidence under oath. He told this court that before his arrest, he was a herder, a farmer and cultivated land on casual basis and was married with two (2) children. He stated that on the material date, he went to Danfast Bar situated at Canaan at about 2.00 pm. He ordered Guinness Beer and sat on a table with his friend Johnnie, a driver with Bayusuf. He said that Johnnie was his customer as he used to sell him charcoal.

23. It was his evidence that half an hour later, the Deceased person, Mwamburi, Kilonzo and two (2) other young men, who were all drunk, came to the bar, greeted him and sat on a different table. He averred that this group drank three (3) bottles of Kane- Extra alcohol but at about 3.00 pm, Mwamburi and the Accused person started arguing about money.

24. He testified that together with Johnnie and other patrons, they decided to separate the Deceased person and Mwamburi and took them outside the bar. It was then that PW 6 came to assist them to

separate the two (2) from fighting. He said that the Deceased person removed a knife which PW 6 took and warned them that if they did not stop fighting, he would call the police. It was his testimony that the Deceased person and Mwamburi stopped fighting and he went back to Danfast Bar to continue drinking. He stated that patrons left the bar at about 3.30 pm and at about 4.00 pm, he left to purchase credit for his phone.

27. However, when he came back after fifteen (15) minutes, two (2) police officers went to the Counter and asked the attendant if there was anyone who had seen the Accused and Deceased persons fight and he told them that he was present at the time. It was then that they asked him to accompany them to Voi Police Station to record his Witness Statement which was to be to the effect that he had seen the Accused and Deceased persons fighting. On their way to the Police Station, they informed him that someone had been killed, who they later disclosed to him was the Deceased person.

28. During his Cross-examination, the Accused person confirmed that he knew the Deceased person, Mwamburi and Kilonzo. He denied having heard the Accused person and Mwamburi arguing about money but stated that he heard them talk about alcohol. He confirmed that the knife that was produced in court was the one that PW 6 took from the Deceased person. He denied ever seeing where the Deceased person and Mwamburi went to after PW 6 separated them from fighting. He said that his witnesses were Brigid who was sitting at the Counter and Johnniewho none of his relatives knew.

27. In his Re-examination, he said that PW 6 never mentioned him in his Witness Statement and that an officer told him that PW 6, who had had him detained two(2) times previously, told them that he should be detained. He added that he had not known the Deceased person for a long time and that Mwamburi and Kilonzo were only his drinking mates at the bar.

## **LEGAL ANALYSIS**

28. The Accused person submitted that PW 4's evidence about who had a knife at the time of the fight contradicted that of PW 6 because PW 4 said that he took the knife from the Accused person while PW 6 testified that it was the Deceased person who had the knife. During his Cross-examination, PW 4 said that in his Written Statement, he had stated that he was given the knife by Mwamburi. Clearly, PW 4 was not certain who gave him the knife.

29. Notably, PW 4 said that he took the knife from the Accused person. On his part, PW 6 who was with PW 4 said that PW 4 took the knife from the Deceased person. The Accused person said that it was PW 6 who took the knife from the Deceased. From the above, it was evident that both PW 6 and the Accused person concurred in their testimony that it was the Deceased person who had the knife.

30. Having gone through the evidence that was tendered, this court was hesitant to say with finality who had the knife or who took the knife from whom during the fight. It is expected that a scuffle or a fight ordinarily happens very fast and witnesses observe different things and hence give different accounts.

31. However, despite all the contradictions in the evidence about the said knife and PW 4 having tendered the said knife as evidence in this court, that knife was immaterial and/or irrelevant in the circumstances of this case as it was not the murder weapon. For that reason, this court found that little could be achieved by placing too much importance on this piece of evidence and the contradictions in respect of this knife were inconsequential. What was of concern to this court was that the circumstances that surrounded the Deceased's death after the fight was broken up.

32. As counsel for the Accused person pointed out, PW 1 was not present at the material time of the fight or killing of the Deceased person and only identified the Deceased's body at the mortuary and could not assist this court determine who and what caused the Deceased death.

33. On his part, PW 2 was said to have been in Standard Eight (8). His age was not given and there was no indication that a *voire dire* enquiry was conducted to establish whether he understood the meaning of taking an oath or saying the truth and thus adduce evidence on oath. What was recorded was that he

understood why he was in court.

34. As the Accused person never raised the issue of PW 2's competence of testifying under oath during the trial herein or in his Written Submissions herein, this court was persuaded to conclude that Muya J who took PW 2's evidence was satisfied that there was no need to conduct a *voire dire* enquiry and that PW 2 was for all purposes and intent, a competent witness to testify under oath.

35. The Accused person's counsel's concern, however, was that PW 2 was not present at the time the Deceased person was killed having only witnessed the fight at Canaan Shopping Centre, a fact that this court found to have been correct. It also noted that in his Cross-examination, PW 2 admitted that he did not mention that he saw the Accused person beating the Deceased person in his Witness Statement.

36. It was also worthy of note that the Prosecution never sought to clarify from him the date of the incident which could have corroborated PW 4's and PW 5's evidence about the fight. This court counter-checked the handwritten notes of Muya J and noted that PW 2 gave the date of the incident as having been 14<sup>th</sup> February 2013, which was different from the date of the alleged incident.

37. After carefully going through his evidence, this court formed the opinion that PW 2 was not a valuable witness. It was also the view of this court that most of PW 5's evidence was heresy and merely re-stated what the witnesses narrated to him. Notably, (PW 5) his evidence that the Deceased was told to go home after the knife was taken away from him but he later came back when the "attacker" killed him was heresy and added little or no value in this case as he did not disclose who gave him the said information.

38. He did not tell the court what investigations he carried out leading him to arrest the Accused person herein. In fact, his evidence of what happened on the material day was merely regurgitated from what other witnesses told him, a fact that was rightly pointed out by the Accused person's counsel and did not demonstrate what investigations he conducted. He seemed to have arrested the Accused person based on what witnesses told him. This court did not therefore attach a lot of weight to his evidence relating to what really transpired at the Canaan Shopping Centre.

39. However, having perused the evidence that was adduced herein, this court found that PW 4's and PW 6's evidence was central to establishing the Accused person's role in the death of the Deceased herein. They were both clear in their testimony that after they intervened and stopped the fight, the Deceased person went his way but the Accused person pursued him to the forest. However, their evidence on who came back and said "Tumemaliza mission" differed. PW 4 said that it was the Accused person who uttered those words while PW 6 said it was Mwamburi.

40. Counsel for the Accused person rightly pointed out that PW 4 referred to the Accused person as "Mwamburi" yet that was not the Accused person's name. Indeed, it was clear from the evidence that was adduced before this court that Mwamburi and the Accused persons were totally different persons.

41. It was, however, not lost to this court that PW 4 was a visitor in the area and having not been familiar with the persons who were involved in the fight, there was a high likelihood of him confusing the names of the people who were involved in the fight, those who followed the Deceased person to the forest and the person who came and said "**Tumemaliza mission.**"

42. However, he positively identified the Accused person in the dock as the person who was involved in the fight with the Deceased person. On his part, PW 6 knew the Deceased person, Kilonzo, Mwamburi and the Accused person both physically and by their names having had a business at Canaan for a considerable length of time. He was unlikely to have been mistaken as to who came back and said "**Tumemaliza mission.**" In view of his familiarity with the persons who went to the forest, this court was inclined to accept that the person who came and uttered those words was Mwamburi and not the Accused person herein.

43. In addition, as PW 6 was very familiar with the Accused person and the incident happened in broad

daylight at about 3.00pm, this court was persuaded to find that it was unlikely that he would have been mistaken as to whether or not the Accused person ran after the Deceased person in the forest. The Accused person in fact told this court that PW 6 could identify him at any time because he had even had him arrested twice before. The issue of PW 6 mistaking the Accused person's identity did not therefore arise as he was able to recognise and identify him at the material time.

44. Notably, there was no direct evidence of who actually killed the Deceased person. However, sufficient evidence was placed before the court to place the Accused person at the scene of crime. Indeed, both PW 4 and PW 6 saw the Accused person pursue the Deceased person to the forest and the Deceased person was actually found dead in the said forest.

45. Although PW 6 testified that he saw smoke in the forest and he accompanied the police to that area, he did also state in his Cross-examination that the Accused person actually led the police officers to where the Deceased person's decapitated body was found. PW 5 did not allude to that fact. However, the Accused person's counsel did not seek to exonerate the Accused person from PW 6's said assertion by seeking further clarification as a result of which PW 6's evidence in that regard remained uncontroverted.

46. In fact once that assertion was made by PW 6, the burden of proof shifted to him as the information of where the Deceased person's body was only within his knowledge as envisaged in Section 111 (1) of the Evidence Act Cap 80 (Laws of Kenya) that stipulates as follows:-

**“When a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any exception or exemption from, or qualification to, the operation of the law creating the offence with which he is charged and the burden of proving any fact especially within the knowledge of such person is upon him:**

**Provided that such burden shall be deemed to be discharged if the court is satisfied by evidence given by the prosecution, whether in cross-examination or otherwise, that such circumstances or facts exist:**

**Provided further that the person accused shall be entitled to be acquitted of the offence with which he is charged if the court is satisfied that the evidence given by either the prosecution or the defense creates a reasonable doubt as to the guilt of the accused person in respect of that offence.”**

47. Going further, as was rightly observed by the Prosecution, the defence that he proffered was a defence of alibi. As PW 6 saw him run after the Deceased person into the forest and saw him half an hour later, it was incumbent upon him to adduce evidence to demonstrate that he never followed the Deceased person to the forest but that instead he returned to the bar after he broke up the fight.

48. He ought to have called either Brigid, Johnnie or any other person to corroborate his evidence that he was not involved in the fight that escalated to the Deceased's death and to confirm that he never crossed road in pursuit of the Deceased person and that the police officers only sought to know if someone had witnessed the fight .

49. His evidence that the Deceased person, Mwamburi, Kilonzo and their colleagues drank three (3) Kane Extra bottles piqued this court's curiosity because he was sitting at a different table and would not in the ordinary course of events have been expected to keep a tab on how many bottles they were drinking.

50. It was also strange that police officers could go to the exact bar where the fight was with him being the only person who knew about the fight between Mwamburi and the Deceased person, all other patrons having left the bar. The question that arose in this court's mind was if Brigid was at the bar, why would he be the only one who would have said that he witnessed the said fight? This was a red-herring that did not assist his case.

51. His arguments that he could not have killed the Deceased person and fail to flee from the area like the

other people who were involved in the fight were thus not convincing enough and fell below the required threshold of proof of a defence of an alibi.

52. Despite the fact that the Prosecution had the opportunity to test the veracity of the Accused person's alibi after he raised it during the defence stage as provided in Section 311 of the Criminal Procedure Code Cap 75(Laws of Kenya), the Accused person had a duty to raise his defence of alibi very early in the hearing so that it does not appear as an afterthought as it did appear in the case herein, a position that was well articulated in the case of *Karanja vs Republic [1983] KLR 501* that was relied upon by the Prosecution.

53. Having failed to call any witnesses to corroborate his defence of alibi, this court found itself in agreement with the Prosecution that its evidence that the Accused person was in the company of others when the Deceased was killed was not rebutted and/or controverted.

54. In the mind of this court, although PW 6 who said that he saw Mwamburi and the Accused person at Canaan after the fight and their pursuit of the Deceased person to the forest did not testify that he saw any blood stains on them, it did not remove the fact that they together with others who pursued the Deceased to the forest had a common intention of causing his death, a fact that was rightly pointed out by the Prosecution.

55. Indeed, the fact that it was only Mwamburi who came to look for paraffin and on failing to find any, took a mosquito net which may have been used for fueling fire, led this court to conclude that all the persons who followed the Deceased person to the forest were left at the scene of crime and for all purposes and intent participated in the death of the Deceased person.

56. The principle of common intention was addressed in the case of *Francisca Ngina Kagiri vs Republic [2009]eKLR* where it was held that:-

**“Common intention generally implies a premeditated plan, but this does not rule out the possibility of a common intention developing in the course of events though it might not have been proven to start with.”**

57. From the Prosecution evidence, it appeared that the Accused person and his accomplices fought over a debt of Kshs 20/=. The Accused person said that he heard the Deceased and Mwamburi argue about alcohol. Whichever circumstance prevailed at the material time, the Deceased person was brutally killed in the course of events in that forest and it was not necessary that there had to be a pre-meditated plan to kill the Deceased person.

58. The question that came in the mind of this court was how, could a fight over such a small amount of money degenerate to decapitation and burning of the Deceased person? Although there was a possibility that the killers' mental state may have been affected by the alcohol that they had consumed, the Accused person having said that the Deceased person, Mwamburi, Kilonzo and the other youth took three (3) Kane-Extra bottles, the very nature of the injuries which included fracturing of the tibia-fibula, cutting of three (3) digits of the right hand and decapitation were a clear manifestation of malice aforethought.

59. Had the Deceased person died during the fight as a result of being hit by hand or being pushed and falling and sustaining injuries that were unintended, perhaps this court could have been persuaded to reduce the charge of murder to manslaughter. Unfortunately, this was not the case. The Accused person and his accomplices intended that the Deceased person must die. That was murder and could not in any way have been unintended.

60. However, assuming that the Accused person did not actually cause the injuries that resulted in the Deceased death, he was equally guilty as he failed to prevent the Deceased person's death when he followed the others to the forest where the heinous crime was committed. Whichever way one looks at it, he was a Principal Offender within the meaning of Section 20 of the Penal Code Cap 63 (Laws of Kenya) that stipulates that:-

1. **When an offence is committed, each of the following persons is deemed to have taken part in committing the offence and to be guilty of the offence, and may be charged with actually committing it, that is to say—**

- a. **every person who actually does the act or makes the omission which constitutes the offence;**
- b. **every person who does or omits to do any act for the purpose of enabling or aiding another person to commit the offence;**
- c. **every person who aids or abets another person in committing the offence;**
- d. **any person who counsels or procures any other person to commit the offence,**
- e. **and in the last-mentioned case he may be charged either with committing the offence or with counselling or procuring its commission.**

2. **A conviction of counselling or procuring the commission of an offence entails the same consequences in all respects as a conviction of committing the offence.**

3. **Any person who procures another to do or omit to do any act of such a nature that, if he had himself done the act or made the omission, the act or omission would have constituted an offence on his part is guilty of an offence of the same kind, and is liable to the same punishment, as if he had himself done the act or made the omission; and he may be charged with doing the act or making the omission.**

61. Further, Section 21 of the Penal Code provides as follows:-

**“When two or more persons form a common intention to prosecute an unlawful purpose in conjunction with one another, and in the prosecution of such purpose an offence is committed of such a nature that its commission was a probable consequence of the prosecution of such purpose, each of them is deemed to have committed the offence.”**

62. Accordingly, having considered the evidence that was placed before this court, the Written Submissions and the case law in support of the respective parties’ cases, this court found that this case was based on overwhelming circumstantial evidence placing the Accused person at the scene of crime and could not exonerate him from the heinous crime.

63. Indeed, this was not a case that was based on mere suspicion. The chain of events which involved a fight, the Deceased person running into the forest, the Accused person and the others pursuing the Deceased person to the forest, Mwamburi coming from the forest and saying **“Tumemaliza mission”** and coming for the mosquito nets after he failed to get paraffin, smoke being seen billowing in the forest, the Accused person being seen in the Canaan Shopping Centre and the Deceased person being found dead after a gruesome murder all within a span of an hour were so connected and uninterrupted that they all formed part of the same transaction as was envisioned in Section 6 of the Evidence Act. The facts were relevant and admissible in the circumstances of the case herein.

64. There may have been a probability that the fight was between Mwamburi and the Deceased person as had been stated by the Accused person seeing that Mwamburi is the one who came back to get paraffin and came out of the whole scenario as the most aggressive. However, weighing PW 4 and PW 6’s evidence against the Accused person’s sworn evidence, it was this court’s considered opinion that their evidence displaced his alibi defence.

65. His assertions that PW 6 had a grudge against him were not convincing to this court as both PW 4 and PW 6 saw him pursue the Deceased person into the forest and in any event, PW 6 was emphatic that although the Accused person had previously stolen property from him, he forgave him and never took the

matters to court.

66. The Accused person did not present any other co-existing circumstances that would have weakened or destroyed this court's inference of his guilt as was set out in the case of **Musoke vs Republic [1958] EA 715** that was relied upon by the Prosecution.

67. This court was satisfied that the Prosecution had demonstrated that the Deceased person died as a result of the Accused person's unlawful commissions or omissions and that the said commissions and/or omissions were committed with malice aforethought.

68. In this respect, this court came to the firm conclusion that the Prosecution had proved beyond reasonable doubt that the Accused person was involved in the death of the Deceased person and that he was guilty of the offence that he had been charged with.

**DISPOSITION**

69. For the foregoing reasons, the Accused person is hereby convicted of the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code.

70. It is so ordered.

**DATED and DELIVERED at VOI this 27<sup>th</sup> day of September 2016**

**J. KAMAU**

**JUDGE**

In the presence of:-

Kertiony..... Accused Person

Miss Anyumba..... Republic

Ruth Kituva– Court Clerk