



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT VOI
CRIMINAL CASE NO 6 OF 2015

REPUBLIC

VERSUS

VINCENT MAGANGA MWASIGHWA.....1ST ACCUSED

RICHARD NYAMBU MWANDOE.....2ND ACCUSED

DONCIA WAKESHO MGHANDA.....3RD ACCUSED

RULING

1. I note that Doncia Wakesho Mghanda, the 3rd Accused person is not present in court. However, both the 1st and 2nd Accused persons are present. It is noteworthy that Richard Nyambu Mwandoe, the 2nd Accused person has not been mentioned anywhere in the proceedings. The 2nd Accused was arrested while he was in the company of the 1st Accused person as they attended the deceased's funeral.
2. It was evident from the evidence of No 40936 Sergeant Stephen Samkuli, the Investigation Officer in this matter (hereinafter referred to as PW 6) that the 2nd Accused person had been Accused of murder but that in his view, the 2nd Accused person should not have been charged with the deceased's murder.
3. In the circumstances, I was of the view that there would be no need to continue keeping the 2nd Accused person in custody as none of the witnesses adduced evidence against him and PW 6 was categorical that he ought not to have been charged with the deceased's murder.
4. I have perused the Written Submissions by the Accused persons dated and filed on 29th November 2016 and those of the State dated 13th December 2016 and filed on 14th December 2016 and noted that the prosecution did infact concede that nothing was found to link the 2nd Accused person to the commission of the offence he had been charged with.
5. Having listened to the evidence by the Prosecution Witnesses and found that no evidence was adduced to prove that the 2nd Accused person was involved in any way with the deceased's murder, I hereby record a finding of "Not Guilty" against the 2nd Accused person in accordance with Section 306(1) of Criminal Procedure Code Cap 75(Laws of Kenya).
6. I hereby direct that he be released forthwith unless he be held for any other lawful cause.
7. As the 3rd Accused person is not present, I hereby direct that the Ruling on whether or not there is a

case to answer by her and 1st Accused person shall now be delivered on 15th December 2017 at 9.00 am.

8. Orders accordingly.

DATED and DELIVERED at VOI this 15th day of December 2016

J. KAMAU

JUDGE

In the presence of:-

Miss Anyumba..... for State

Richard Nyambu Mwandoe..... Accused person

Josephat Mavu– Court Clerk