



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KERICHO
CRIMINAL CASE NO. 15 OF 2011
REPUBLIC.....PROSECUTOR
VERSUS
AGGREY ONYANGO PITA.....ACCUSED
R U L I N G

1. The State closed its case yesterday (26th March, 2015) after calling six(6) witnesses.

The accused faces a charge of Murder contrary to **Section 203** as read with **Section 204** of the **Penal Code**. The particulars being that the accused on 20th day of March, 2011 at Mjini area of Kericho District within the Rift Valley Province murdered **Abdi Aboko**.

2. PW6 (*Doctor Koskei Edwin*) produced the postmortem report on behalf of Doctor Kibet Shukuku. The cause of death was severe extradural haematoma and pneumonia due to loss of blood.

3. The evidence of PW1 – PW5 was all hearsay evidence. None of these five (5) witnesses witnessed anything that connected the accused with the death of the deceased. None of the evidence by the five(5) witnesses in relation to the person who caused the fatal injuries was corroborated at all.

4. The prosecution is on record as complaining of frustration by witnesses who recorded statements and have disappeared not to be traced.

Some of the witnesses whom the court issued witness summons for were;

(i) *Dennis Shem*

(ii) *Kevin Omondi*

These were eye witnesses to this incident.

5. There are those witnesses who broke into the house to rescue the deceased. The assailant was known and was pulled out of the said house. None of the said witnesses testified before this court.

6. It is obvious that these potential witnesses were threatened and/or influenced and so disappeared and others did not want to come out and state what they witnessed.

7. The deceased met a painful death but with the evidence before the court it would be an exercise in futility to place the accused on his defence. If he elected to remain silent the evidence before this court would not be sufficient to sustain a conviction. I find the prosecution case not proved for me to place the accused on his defence. For my part I find him not guilty and acquit him under **Section 306(2)** of the **Criminal Procedure Code**. Orders accordingly.

Dated, signed and delivered this 27th day of March, 2015

H.I. ONG'UDI

JUDGE

In the presence of ;

M/S Kivali for State

Mr. Ngetich for accused

Accused

Lagat – Court Assistant

Interpretation – English/Kiswahili