

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

CRIMINAL CASE NO.36 OF 2009

REPUBLIC.....PROSECUTION

VERSUS

PAULINE CHEMUTAI BII.....ACCUSED

COURT OBSERVATION

This matter is coming up for Ruling today but I have not been able to prepare the said Ruling for the following reasons;

- **SIMON KIBET** who testified as PW2 was stood down in the process of cross-examination by the defence Counsel Mr. C.K.Korir on 8th March, 2011.
- The reason for standing him down was that he fell ill while in the witness box and the Court could not allow him to proceed.
- I have gone through the record and have not found any evidence showing that the said witness was ever recalled for the completion of that process of cross-examination.
- I appreciate that this is an old matter which has been handled by three (3) Judges, two defence Counsels and several prosecutors, hence the high chances of such omissions.
- The evidence of this witness has been submitted on by the defence, yet cross-examination of him was not completed.
- It would be in interest of justice in this case that the Prosecution case be reopened to allow this witness to be recalled for purposes of cross-examination and re-examination.
- But before I do that I wish to hear from the State and the defence on the same issue.

Dated, signed and delivered in open court this 12th day of June, 2015.

H.I.ONG'UDI

JUDGE