



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT KISII
CRIMINAL CASE NO.14 OF 2011

REPUBLIC

VERSUS

SAMUEL ONDIEKI ONKENDI - ACCUSED

RULING

1. The accused herein SAMUEL ONDIEKI ONKENDI faces the charge of **Murder** contrary to **Section 203** as read with **Section 204 of the Penal Code**.

The particulars are that on the night of 25th /26th January 2011 at Bokeire sub-location in Kisii South District within Kisii County, murdered **JANE KWAMBOKA NYAGAKA**.

2. He pleaded not guilty to the said charges on 16th February 2011 and has been in custody since then awaiting his trial.

3. The case was subsequently listed for hearing on numerous occasions, however, for one reason or the other the hearing never took off on any single occasion.

4. The court granted the prosecution numerous adjournments to enable them avail witnesses in vain and the last application for adjournment by the prosecution made on 27th October 2015 was rejected whereupon the State counsel Mr. Majale opted to close the prosecution's case without calling any witness.

5. In the absence of any evidence from the prosecution, this court's hand is tied and I therefore find the State failed to prove a prima facie case against the accused.

6. I would therefore acquit the accused person as I hereby do under **Section 306(1) of the Criminal Procedure Code**.

Dated, signed and delivered in open court this 28th day of October, 2015

HON. W. OKWANY

JUDGE

In the presence of:

- Mr. Boyon for State
- Mr. Kaburi for Accused
- Omuga: Court clerk