

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL CASE NO.25 OF 2012

REPUBLIC.....PROSECUTOR

VERSUS

SAMUEL ADONGO ACHOLA1ST ACCUSED

CORNELIUS OMBOGI NYABERA.....2ND ACCUSED

RULING

The accused, **Samuel Adongo Achola** and **Cornelius Ombogi Nyabera** (1st and 2nd accused respectively) are charged with murder contrary to section 203 as read with Section 204 of the Penal Code. The particulars of the charge are that on 1st April, 2012 at **Kayole Estate in Nairobi East** within **Nairobi Province** murdered **John Mwangi**. They denied the charge when arraigned in court on 13th April 2012 and were remanded in custody.

The prosecution has called a total of 6 witnesses. At the close of the prosecution's case, both the prosecution counsel and defence counsel filed written submissions which they subsequently highlighted.

I have carefully analyzed the evidence now on record. I have also considered the submissions referred to above. The eye witness account of PW1 and PW2 places the accused at the scene. The evidence of PW4 shows that the accused died of severe head injuries caused by blunt force trauma consistent with assault. It is my finding that the prosecution has established a *prima facie* case to warrant putting the accused on their defence. I find **Samuel Adongo Achola** and **Cornelius Ombogi Nyabera** have a case to answer. I require them to make their defence as per **Section 306 of the Criminal Procedure Code**.

Ruling delivered and dated at Nairobi this 7th day of August, 2014

R. LAGAT - KORIR

JUDGE

In the presence of:

.....: Court clerk

.....: 1st Accused

.....: 2nd Accused

.....: For 1st Accused

.....: For 2nd Accused

.....: For the State