



REPUBLIC OF KENYA

High Court at Nairobi (Nairobi Law Courts)

Criminal Case 65 of 2009

REPUBLIC..... PROSECUTOR

VERSUS

EVANS NYASIANI KOROBA..... ACCUSED

JUDGMENT

The accused, **EVANS NYASIANI KOROBA** is on trial for the offence of **murder contrary to section 203 as read with section 204 of the Penal Code**. The victim of the alleged crime is **BONIFACE MUTUNGA**.

The prosecution has called a total of eleven (11) witnesses. The post-mortem examination on the body of the deceased was conducted by Dr. Dorothy Njeru, a pathologist.

The pathologist established that the cause of death was Head Injury due to blunt trauma.

There was bleeding between the skin and the skull. There was a lot of blood over a wide area. There was also a fracture of the skull.

According to the doctor, the injury could have been caused by a heavy blunt object. And when the doctor was asked if Exhibit 1 (c) could have caused the fatal injury, she answered in the affirmative.

The doctor explained that although there was only one injury to the head of the deceased, the effects spread over a wide area.

She further explained that although there was some bruising of the skin at the point of the injury, what was more pronounced was a contusion.

A contusion was described as an injury which has a minimal external appearance, but with a deep effect.

The prosecution thus established the death of the deceased as well as the cause thereof.

The body of the deceased was recovered close to the house where the accused used to live. There was no other house close to that place.

The accused is said to have admitted having been involved in the killing of the deceased. If that be true, coupled with the recovery made from the house of the accused, and the evidence of a struggle so close to the said house, I am satisfied that the prosecution has established a *prima facie* case against the accused.

According, the accused has a case to answer. He is now put to his defence.

Dated, Signed and Delivered at Nairobi this 25th day of February, 2013.

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FRED A. OCHIENG
JUDGE