

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NYERI
CRIMINAL REVISION CASE NO. 61 OF 2013

REPUBLIC.....APPLICANT

versus

JAPHETH ONSORIGO ASIAGO.....RESPONDENT

REVISION

1. This matter has been referred to this court for revision under the provisions of section 362 – 367 of the Criminal Procedure Code by the Office of the DPP on the following grounds:

- 1. That the Honorable learned trial magistrate erred in failing to take into account the evidence given by the inquest witnesses.***
- 2. The honourable trial magistrate erred in holding that the accident could have caused death by dangerous driving***
- 3. The honourable trial magistrate acknowledged that the accident could have been caused by mechanical problems.***

1. That the honourable magistrate should have ordered further investigations into the matter as this is what will help to unearth mystery and do real just to all.

I have perused the record of the trial court. I have noted that IW1 Edwin Siela who inspected the said motor vehicle concluded that the motor vehicle had not pre-accident defects and IW5 Corporal John Munguti testified that according to the investigations the cause of the accident was defects of the motor vehicle being driven.

I therefore find no fault with the trial court's holding herein noting that the issues raised by the DPP will still be available to the driver of the said motor vehicle as defences if and when he is charged.

Since the office of DPP is in charge of prosecution the same is at liberty to order further investigations on the circumstances herein if need be before charging the driver herein as per the recommendations of the trial court

In the final analysis I decline to reverse the finding of the trial court herein save that the driver of the said motor vehicle be charged upon completion of further investigations by the office of the DPP and subject to direction of the same.

Dated at Nyeri this 24th day of July 2013.

J. WAKIAGA

JUDGE

