



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MOMBASA**  
**CRIMINAL CASE 53 OF 2009**

REPUBLIC ..... PROSECUTION

=VERSUS=

ERICK ODHIAMBO AKUMU ..... 1<sup>ST</sup> ACCUSED

JUDITH AKINYI MWAI ..... 2<sup>ND</sup> ACCUSED

**RULING**

The two accused persons **ERICK ODHIAMBO AKUMU** (hereinafter referred to as the 1<sup>st</sup> accused) and **JUDITH AKINYI MWAI** (hereinafter referred to as the 2<sup>nd</sup> accused) are jointly charged with the offence of **MURDER CONTRARY TO SECTION 203 as read with SECTION 204 OF THE PENAL CODE**. Both accuseds entered a plea of '**Not Guilty**' to the charge and their trial commenced before the High Court in Mombasa on 20<sup>th</sup> May 2010. The prosecution led by **MR. ONSERIO** learned State Counsel called a total of fourteen (14) witnesses in support of their case. **MR. WAMEYO** Advocate represented both accused persons. At the close of the prosecution case I am satisfied that a prima facie case has been established as against the 1<sup>st</sup> accused. He will therefore give his defence to this charge. With respect to the 2<sup>nd</sup> accused I find that no prima facie case has been established against her – reasons will be given in my final judgement. Therefore with respect to the 2<sup>nd</sup> accused Judith Akinyi Mwai I enter a verdict of '**Not guilty**' in accordance with Section 306(1) of the Penal Code and I hereby acquit her of this charge. Accused 2 Judith Akinyi Mwai is to be set at liberty forthwith unless she is otherwise lawfully held.

**Dated and Delivered in Mombasa this 26<sup>th</sup> day of April 2012.**

**M. ODERO**  
**JUDGE**

In the presence of:

Mr. Wameyo for both accused

Mr. Tanui holding brief for Mr. Onserio for State