

REPUBLIC OF KENYA

High Court at Malindi

Criminal Case 20 of 2011

REPUBLICPROSECUTOR

VERSUS

KARISA KATANA MANGI

FURAHA SULUBU KAZUNGU BAYA

OMAR DZARO MATETE.....ACCUSED

RULING

1. The three accused persons were jointly charged with the murder of Rodgers Kaingu Mwanyale on 30th September, 2010. The prosecution closed its case after calling eight witnesses. Having considered the prosecution evidence, I have come to the conclusion that the same merely casts suspicion on the accused persons. It would appear that following the murder of the deceased, and the arraignment of one Katana Karisa Mangi (father to the 1st accused) in that regard, the three accused showed intense animus against the key witnesses in the criminal trial (HCR 33 of 2010 R Vs Katana Karisa Mangi). The culmination was a threatening letter (Exh.1) warning the key witnesses in the murder trial, and also in this case to leave Kilifi or be killed. The police made a decision to charge the three accused upon receipt of a complaint in that regard.

2. According to the handwriting expert, the said letter was authored by the second accused. Beyond the foregoing there is no evidence to connect any of the accused with the murder of Rodgers Kaingu.

3. However, as a Court of Law previously seized with the trial of Katana Karisa Mkangi, I cannot shut my eyes to the alleged mischief attributed to the three accused in an apparent bid to interfere with and threaten witnesses in the previous trial. Such blatant apparent disregard for the due process if ignored cannot auger well for the rule of law.

4. As I directed at the close of the trial in criminal case no. 33 of 2010, I do acquit the three accused herein under Section 306(1) of the Criminal Procedure Code in respect of the murder charge but will direct that the accused herein be handed over to the OCS Malindi, upon release from custody for purposes of further investigations and arraignment, for the appropriate offence or offences under the Penal Code, within seven (7) days of today's date.

Delivered and signed at Malindi this 23rd day of November, 2012 in the presence of the accused, Mr. Shujaa holding brief for Mr. Gekanana for accused, Mr. Kemo for the State.

Court clerk – Evans.

C. W. Meoli
JUDGE