



IN THE HIGH COURT OF KENYA
AT NAKURU
CRIMINAL CASE NO. 29 OF 2010

REPUBLIC.....PROSECUTOR
VERSUS
LUKUNDONG LESIPITI.....ACCUSED

JUDGMENT

Lukundong Lesipiti is charged with the offence of murder contrary to **Section 203** as read with **Section 204** of the **Penal Code**. He is alleged to have murdered Malwaki Lesipiti on 19th January 2010 at Ngare-Narok Topur in Samburu East District.

The prosecution called a total of six witnesses. PW1, Samono Lekamario, the chief of Ngare Narok Location got information on 19th January that somebody had been murdered. He went to the scene of the murder at Ngare-Narok and he found the body of the deceased lying in a Manyatta. He noticed a gun shot wound in the right hand and the bullet had gone through to the left side of the body. He was unable to trace the cartridge at the scene. The Manyatta was deserted. PW1 told the court that the deceased was the father of the accused person.

PW2, Lopeleu Lekupalo, a police reservist received a firearm from Lenguruoni and delivered it to the Chief's home on 2nd February 2010. He could not remember the names of the old man who took the firearm to him. It was marked for identification as MFI-1.

PW3, Lesanwa Ole Lekapitu, a village elder in Ilitamiyoi sublocation received a report from Etepeyiani Letapitu that the accused was in his home and that he was suspected to have murdered his father. Lesanwa reported to the AP camp who did not assist him. He then went to report to the OCS Maralal and he led the police to the home of Letapitu on 26/1/2010 where the accused was arrested.

PW4, PC Agnes Luchera, was one of the officers who went to arrest the accused on 26th January 2010.

PW5, PC Daniel Bonino and PW6, Polycap Odhiambo who are based at Wamba police station, were asked to accompany Senior Sergeant Kathurima to Ngare-Narok location to a murder scene. On arrival they did not find any body or the remains. The manyatta was deserted.

Having heard the evidence of all these prosecution witnesses, I find that there is no eye witness to the murder nor is there any evidence linking the accused person to the murder of his father. The weapon that was recovered has not been linked to the accused nor is there any evidence from an expert that it is the weapon used in the murder. The body of the deceased was not found and it cannot be ascertained how he met his death, if at all. The accused remains a mere suspect.

I therefore find no evidence to warrant the accused being placed on his defence. He is therefore acquitted of the offence as charged under Section 306(1) of the CPC and should be released forthwith unless held for other good reason.

DATED and DELIVERED this 25th day of October, 2010.

R. P. V. WENDOH
JUDGE