

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KAKAMEGA

Criminal Case 46 of 2003

REPUBLIC ----- PROSECUTOR

V E R S U S

CHRISPO OMBEVA AGOI----- 1ST ACCUSED

CHRISTOPHER NDOLI AMBEVA -----2ND ACCUSED

R U L I N G

The two accused persons, **CHRISPO OMBEVA AGOI** and **CHRISTOPHER NDOLI AMBEVA**, were charged with murder. It is the prosecution case that the two accused persons murdered **HENRY MUNGESANI OMBEVA**.

The deceased was the son to the 1st accused, and he was a brother to the 2nd accused.

The prosecution has called seven witnesses. Dr. Jason Amukonyi testified as PW5. He produced the post mortem report which had been prepared by Dr. John Aswani, who did the post mortem examination on the body of the deceased. The body of the deceased had multiple bruises all over the body. It also had a skull fracture on the right frontal region of the head.

The doctor who carried out the post mortem concluded that the cause of death was the severe head injury which the deceased sustained.

PW6 and PW7 were police officers who went to the scene of crime immediately after receiving a report about the demise of the deceased, Henry Mungesani Ombeva. The two police officers testified that the two accused persons had beaten up the deceased on the night of 20th March 2003.

The reason for beating the deceased was that he had stolen some two “**goro goros**” of sorghum. Therefore, the 1st accused is alleged to have concluded that the deceased had become a bother.

In his anger, the 1st accused enlisted the help of the 2nd accused to tie-up the hands of the deceased. Thereafter, the two accused persons are said to have “**instilled discipline**” into the deceased. They did so by beating him, using a black rubber whip and a stick.

From the evidence already tendered, I am satisfied that the two accused persons have a case to answer. I say so because all the evidence on record points directly at the two of them, as having been active participants in the beatings which led to the death of the deceased in this case.

Accordingly, I find and hold that the two accused shall be put to their respective defences.

Dated, Signed and Delivered at Kakamega, this 28th day of April, 2009.

FRED A. OCHIENG

J U D G E