

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT NAKURU

Criminal Case 121 of 2007

DAVID KIPKURUI CHERUIYOT.....APPELLANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

DAVID KIPKURUI CHERUIYOT, the accused is charged with murder contrary to **Section 203** as read with **Section 204** of the **Penal Code**. The particulars of the charge against him are that on 9th December 2007 at Olekuseroi Village in Narok District within Rift Valley Province he murdered Kekanya Cheruiyot.

Although the case has come up for hearing about 8 times, the prosecution has not been able to avail even one witness. When it last came for hearing on 2nd December 2009 Mr. Gumo threw in the towel and said he is unable to secure the attendance of the witnesses. So there is not an iota of evidence against the accused. In the circumstances I find that the accused has no case to answer and I accordingly acquit him under **Section 306(1)** of the **Criminal Procedure Code** and order that he shall be set free forthwith unless otherwise lawfully held.

DATED and delivered this 3rd day of December, 2009.

D. K. MARAGA

JUDGE.