

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MALINDI

Criminal Case 8 of 2007

REPUBLICPROSECUTOR

VERSUS

FIKIRI JAPHET CHARO alias KONDE BARAWAACCUSED

JUDGMENT

On 5th day of March 2008, the accused herein, Fikiri Japhet Charo alias Konde Barawa, complained to the Court that he had been assaulted by the prison warders on the night of 4th March 2008. I then ordered the officer-in-charge of Malindi G.K Prison to investigate his claim and to report back to Court on 8th April 2008.

On 8th April 2008, Deputy Officer-in-charge of Malindi G.K. Prison PP No. 83083736 S.P. Benedict M. Mutunga, testified on oath, and equally tendered evidence by way of witness statements in response to the claim. The long and short of it is that the warder Dominic Munyithya Kioko complained to the sleeping-in-officer C. O. Kinoti that on night of 3rd March 2008, a group of condemned prisoners at Mix-block ward had violated prison regulations by talking after the official hours - 9.00pm. he pointed out the accused as one of the culprits.

Consequently, a commotion ensued between the accused and warder Kioko. The Chief officer, C. Kinoti, managed to control the situation. He termed it a minor incident. He averred that the accused is a quiet but hot tempered person and that this complaint was made in the heat of the moment.

I have carefully listened to the said Deputy Officer-in-charge and scanned through the witness statements tendered herein. I have also had the advantage of hearing the accused in court. It appears to me that the accused is a difficult character. He is a rouble-rouser. There was no visible injuries on him either. No doubt there was a confrontation between him and the warders on duty but the same was a minor incident. The report was made to Court so soon thereafter and there being no visible injuries on the complainant, I would rather rest this matter with a warning to the prison authorities to remember that they should not take the law on their own hands. There are appropriate disciplinary measures that could be taken against remandees that violate the prison regulations. Perhaps they would rather follow those avenues.

Dated and delivered at Malindi this 6th day of May 2008.

N. R. O. Ombija

JUDGE