



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT KAKAMEGA**

**Criminal Case 7 of 2002**

**REPUBLIC.....PROSECUTOR**

**V E R S U S**

**GODFREY MAHASI NGAIRA]..... 1<sup>ST</sup> ACCUSED**

**STELLA MUHONJA NGAIRA].....3<sup>RD</sup> ACCUSED**

**R U L I N G**

The case started off with three accused persons, namely GODFREY MAHASI, RODGERS AMATA and STELLA MUHONJA NGAIRA. However, RODGERS AMATA passed away, leaving only 2 accused persons.

By the time the prosecution closed its case, a total of 7 witnesses had testified.

**PW7, Dr. Joseph Egala Jumba**, testified that he carried out the post mortem examination on the body of the deceased, **JONATHAN ELLY NGAIRA**. Before the doctor commenced the post mortem, the body was identified to him by **PW3, Ismael Ayodi Mweresa**.

After conducting the post mortem examination, the doctor formed the opinion that the death of the deceased was caused by the severe loss of blood. The body had a large wound on the left shoulder region, and another wound under the left armpit. Some blood vessels had been severed.

Although only one of the prosecution witnesses had witnessed the attack on the deceased, the accused persons were linked to the incident by the deceased himself, as the deceased talked to his father (**PW1**) before succumbing to his injuries.

The one person who says that she witnessed the incident is **EVERLYN MIDEVA**. She was the wife to the deceased. And she said that she saw the accused persons entering their house, and then descending on the deceased, using pangas.

The Investigating Officer, **CHIEF INSPECTOR BILL ONYANGO**, as well as **PC MOURICE WEKESA** both testified that the accused persons admitted having participated in inflicting injuries on the deceased, although the accused persons said that that was in the course of a fight.

**PW4, HERMAN KIBUNJA**, was the chief of Wamuluma. He visited the scene immediately after **PW1** reported to him about the incident. He too heard the deceased say that the injuries on him were occasioned by the accused persons.

As the death of the deceased was attributable to the loss of blood resulting from the injuries inflicted on him, apparently by the two accused together with Rodgers Amata, I find that the prosecution has established a prima facie case against the accused persons. The said accused persons therefore have a case to answer.

***Dated, Signed and Delivered at Kakamega this 3<sup>rd</sup> .day of December 2008***

**FRED A. OCHIENG**

**JUDGE**