

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
CRIMINAL CASE NO. 5 OF 2001

REPUBLIC.....PROSECUTOR

V E R S U S

HUMPHREY OCHIENG ODUOR.....ACCUSED

R U L I N G

The issue of the admission of Accused confessions has hitherto been resolved under Section 25 of the Evidence Act, Cap.80. This was the law when the offence charged in this trial is said to have been committed. However, since then the law has been amended by addition of Section 25A Evidence Act in which it is clearly stated the conditions under which confessions may be admitted in Criminal Cases.

The other issue raised in this case at this stage is whether the possession of new enactments can be applied retrospectively. So that the Accused can benefit by non admission of this case.

The general principle of law is that law is to be applied looking to the future not backwards. In this case the society has shown its distrust of confessions taken under the old law. It is for the court to consider the value of the evidence of confession at the present time.

I therefore rule that the confession in this case will be admitted in evidence. It is for the court to consider it in view of the changed attitude of the society.

Dated at Mombasa this 20th day of February, 2004.

JOYCE KHAMINWA

J U D G E

Khaminwa, J.

Chege – Court Clerk

Mwangi – for State.

Accused – present

Two Assessors – present

Ruling read in open court.

JOYCE KHAMINWA, J.