



**Republic v Maubi (Criminal Case 33 of 2020)
[2023] KEHC 21793 (KLR) (21 July 2023) (Judgment)**

Neutral citation: [2023] KEHC 21793 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISII
CRIMINAL CASE 33 OF 2020
REA OUGO, J
JULY 21, 2023**

BETWEEN

REPUBLIC PROSECUTOR

AND

BONIFACE MAUBI ACCUSED

JUDGMENT

1. The accused, Boniface Maubi is charged with murder contrary to section 203 as read with section 204 of the [Penal Code](#). he particulars of the offence are that; “On the night of December 19, 2020 at Kisii Central Sub-County within Kisii County the accused murdered Bramwel Jimmy Chikunza.”
2. The prosecution evidence comprises of testimony from the deceased’s friends Pw1, Pw3 and Pw8. The deceased’s brother was Pw2. The doctors who attended to the deceased before his death at Nyanchwa Hospital were Pw11 and Pw13. The police officers who were present at the station when the deceased accompanied Pw8 who was looking for his wife were Pw4, Pw5 and Pw7. Pw6 conducted the post-mortem and the officer commanding the police station was Pw10.
3. Wycliffe Omondi (Pw8) testified that he was a friend to the deceased and had known him for 15 to 20 years. He recalled that on December 19, 2020 at 10:45 p.m. his wife called him and informed him that she had been arrested. This was during the covid period. He called the deceased to accompany him to the police station. Pw8 wanted to find out if he could bail her out. They found 3 people at the station; two female officers and a man were on duty. There was also one person in civilian clothing (the accused) seated at the arm chair. He was in a checked short sleeved shirt and a khaki trouser. Pw8 testified that he was sober. He requested the lady at the counter to see his wife but she did not respond. He sat there for 5 minutes while the deceased stood by the door. He then demanded to see his wife as it was within his rights and the lady police officer got agitated. He went and sat down. Pw8 was suddenly slapped on the face and punched by the accused person. The officers who were present said nothing. As he was being beaten the deceased took out his phone and started taking a video. Upon realizing that



the deceased was taking a video, the accused kicked the deceased on the stomach. He stood up to help the deceased and take his phone but the accused grabbed him by the chest. At that time the deceased begun crying in pain. The officers inside the reporting office did not come out and the accused person left whereupon a land cruiser with 6 officers got in and put him inside a lorry. The accused person who had slapped him came back and punched him (Pw8) while the others held his arms apart. They pulled the deceased and with their guns started butting him. They then placed them in the cell where their phones and cash were stolen. After an hour the deceased started complaining that he was experiencing pain in the stomach. His wife was released. The following morning his wife came back at 10:30 a.m. and they paid Kshs 5,000/- as cash bail for their release. However the deceased was told to go back to the cell. The deceased was later taken to the hospital and died on December 22, 2020.

4. Pw8 testified that the following day he came to know that the accused person was a police officer. The other officers knew he was a policeman as the other officers held him when the accused was punching him. He testified that there was sufficient lighting and he saw the accused very well while he was seated and when he punched him as they were in very close proximity. He was summoned for an identification parade on December 23, 2020 but was afraid as he had received so many phone calls that his life would be in danger. His friend Fred then convinced him not to do the identification parade. On December 24, 2020 he was assured of his security and did the parade and was put under witness protection. He identified the accused person. On cross examination, he testified that the first identification parade was conducted on 23rd and that he participated up until the end but he was not able to identify the accused person. He testified that the patrol officers also beat the deceased with gun butt while he was unconscious. He testified that were beaten for no reason as they did not start any commotion at the station.
5. No. 236629 Chief Inspector George Ochieno (Pw9) testified that he was instructed by the DCIO Kisii County to help in conducting an identification parade in this case. There were 5 suspects including the accused person. The witness from identification parade was Pw8. He put the suspects and the witnesses in different rooms such that the witness could not connect with the suspects and similarly the suspects could not contact the witness. The suspects were told the reason for the parade and they agreed to the parade. After the parade the witness identified the accused person. He was between No 3 and 4 and the witness identified him by touching his shoulder and he said that it was the accused person who kicked the deceased at the abdomen. The identification parade was done fairly and Pw9 prepared his report and recorded his statement.
6. Edwin Okemwa (Pw1) was informed that the deceased was sick and had been admitted to Nyanchwa Hospital. He went to the hospital and found the deceased sitting outside the hospital clutching his stomach. The doctors had directed that a scan be done. Pw1 testified that according to the scan, the deceased had 2 wounds and was bleeding from the stomach. On December 22, 2020 Pw1 was told that the deceased died that morning. Geoffrey Lumumba Shirao (Pw2) received a call from Pw1 that the deceased had been beaten at the police station and was in hospital. He testified that Pw1 asked him for money to have the deceased treated and he sent him Kshs 2,000/-. Later, Pw1 called to inform him that Kshs 8,000/- was needed to operate on the deceased and that he would ask the deceased's friends to contribute. Tom Mogere (Pw3) testified that he was friends with the deceased and was informed of his sickness. He collected Kshs 6,000/- from his friends that was to be used by the deceased for treatment. He was later informed that the deceased had passed on.
7. Dr. Makebe Matara (Pw11) testified that he holds a bachelor's degree in medicine and surgery. The deceased had a history of abdominal pain, vomiting and abdominal swelling after being assaulted by the police. The abdomen was tender and swollen. They performed a procedure called paracentesis and extracted fluid that had faecal matter. He made an impression of peritonitis. The deceased was taken



to theatre and Pw11 was the assistant surgeon. As the abdomen was opened, there was 1.5 litres of fluid that was foul smelling as it was mixed with faecal matter. The large intestines were perforated and the pancreas was ruptured. Part of the intestine was removed by the surgeon and the deceased put on antibiotics and painkillers. The deceased died 7 hours following the operation. Pw11 testified on cross examination that the surgeon was Dr. Joel Marwa.

8. Dr. Joel Mkenge Marwa (Pw13) testified that upon examining the deceased on 21/12/2020 he noted that he required immediate surgical intervention. He had severe abdominal pain and his fever was very high. He was in septic shock. Resuscitation ensued and they took him to theatre after they brought his blood pressure up to sustain the surgery. During the surgery he had peritonitis. They found pus and faecal matter. There were perforations from the large gut which is from the ascending colon and other perforations of the stomach. The contents of the stomach comprising of what he had eaten had been deposited in the abdominal cavity making peritonitis worse. During exploration, he discovered that the pancreas had a large collection of blood, it was contused and part of the pancreas was ruptured. This all contributed to his state of shock. He repaired the 3 perforated areas and the deceased was taken out of the theatre alive with stable vitals. He recommended that he be admitted at the nearest ICU when he finished the surgery at 12:00 midnight. As they tried to get a hospital he received a call that the deceased had died at 2:30 a.m. He suffered a cardiac arrest and they tried to resuscitate him. He was confirmed dead at 3:00 a.m.
9. The officers at the station testified, they were Norah Buyaki Moku No. 232239 (Pw4), No. 76251 PC Timothy Situma (Pw5) and No. 86173 CPL Stephen Perrio (Pw7). Pw4 testified that on December 19, 2020 she was at the station with Pw5 and P.C Rebeka and the 3 of them were on duty. Later the accused person joined them, he wore civilian clothes. At around 11:00 p.m. 2 men came from outside and demanded that they wanted to see their female friends who were in the cells. One of them was tall and masculine (Pw8) while the other was short (the deceased). The 2 appeared drunk. They were told by P.C Rebeka that visiting hours were over. They then started shouting, telling the officers that they were within their rights to see their friends. Pw8 was very harsh. Pw5 told them to leave and that their friends could not be released. This angered Pw8 and the deceased. Pw5 went to talk to them and Pw8 grabbed his shirt and they began struggling. The accused was called upon to help out his colleague and at that point Pw4 hid the gun she had inside the metal box. Pw8 wanted to fight Pw5 and the accused got up to separate the two. The accused and Pw5 pushed the 2 outside as the 2 were seeking entry into the cell forcefully with the intention of visiting their friends. The deceased and Pw8 were urged to go home. Shortly thereafter Pw7 who was passing by heard the commotion came asking what had happened. Pw8 was still holding on to Pw5's shirt and then Pw7 told the two men that they will be charged for creating disturbance. When they heard what Pw7 said they now wanted to leave but the patrol car immediately arrived with OCS Sankele who upon being informed of the situation directed that the two be put in the cells and charged with creating disturbance. After being put in the cells Pw4 heard a commotion as if the other inmates were trying to attack them. The accused person had already left and Pw4 testified that she did not see him kick the deceased. The following day Pw8 and the deceased were released. On cross examination she testified that no one fell down or became unconscious. Pw8 and the deceased refused to be searched and to give out their names and were booked as unknown persons.
10. Pw5 testified that on December 19, 2020 at around 2300 hours Pw8 and the deceased came to the station and Pw8 wanted to see his wife. Pw8 was tall and well groomed while the deceased was about Pw5's height. Pw5 did not allow them to see the lady and they turned violent and started abusing the officers saying that they had the right to see prisoners. Pw5 opened the small door to tell them that they should go home and immediately Pw8 held him by the collar. Pw5 testified that he did not see the accused persons. He recalled that Pw7 joined in when his female colleagues started shouting. It was after Pw7 arrived that the accused person came to help him. Thereafter the OCS came and found



- the two men who were then booked in. The two refused to give their names or be searched. Pw5 then heard noise as if they were fighting other inmates. He entered the cell with other patrol officers and told the inmates not to fight each other. He was on duty up until 2336 hours and handed over 43 prisoners to PC Vivian and PC Njeri. The following day at 08:36 hours he went back to work and noted that the names of Pw8 and the deceased had been now recorded. The two were released on cash bail by the OCS at different times. On December 23, 2020 members of the public came with a body and left it at the police station claiming that the person had been injured while in police custody.
11. Pw7 testified that on December 19, 2020 he had been at the township with CPL Otunga and CPL Opili who dropped him at the gate and he was heading to his house at Kisii Police lines. He then heard a commotion at the station level. He found Pw5 being attacked by Pw8 and Pw4 and P.C Rebeka were trying to separate them. The accused person was also there in civilian clothes. Before he could intervene the OCS arrived with a team and the 2 were arrested. Pw7 booked them as unknown and on December 20, 2020 they were released by the OCS on cash bail. On December 22, 2020 he was at the station when a group of the protestors came with the deceased's body and entered the station. The crowd was violent and was dispersed. The members of the public claimed that the deceased was killed by the police. He then realized that the deceased was the one who had been at the police station and released.
 12. No.234565 Chief Inspector John Sankale Sikimo (Pw10) testified that on December 19, 2020 he found a commotion in front of the reporting office. The report office personnel Pw5 and P C Rebeka informed him that the 2 gentlemen who appeared drunk and were making so much noise insisting that 2 ladies must be released. He instructed the officers to charge the 2 for creating disturbance and left immediately. On December 20, 2020 he released Pw8 on a Kshs 5,000/- bond and the deceased on a free bond. He was later informed of the deceased death and that there were demonstrations on allegations that he was shot at the police station. He further testified that he also saw the accused person at the station but he was not in uniform.
 13. No. 85877 CPL Anne Owino (Pw12) was the investigating officer. She testified that the deceased had died in unclear circumstances and the matter reported to Kisii police station by Pw8. Pw8 had reported that he had gone to the station on December 19, 2020 to look for his wife and a confrontation ensued between the police officer Pw5 and Pw8 prompting the accused person who was in civilian clothes to attack the deceased by kicking his stomach. The deceased later died while undergoing treatment. According to the post mortem report by Pw6, the deceased died due to abdominal injuries due to a blunt force trauma. An identification parade was conducted on December 24, 2020 and Pw8 positively identified the accused. She explained that 2 identification parades were conducted as Pw8 complained that the parade was done in an area that was not conducive as the deceased had died at the police station. On cross examination she testified that the incident took place during covid-19 period and she could not tell if the accused wore a mask.
 14. At the end of the prosecution case, the court found that the prosecution had established a prima facie case and put the accused on his defence.
 15. PC Boniface Maubi (Dw1) testified that on December 19, 2020 he went to Kisii Police station to check his duties at 11:00 p.m. He found Pw4, Pw5 and P C Rebeka at the station. He then heard P C Rebeka ask 'Kwani umerudi'? She was talking to Pw8 and the deceased. P.C Rebeka mentioned that the two wanted to beat them and a struggle ensued. Pw10 came and ordered that the 2 be locked up. He testified that he did not see anyone beat the 2 men. He explained that he was involved in an accident and had sustained an injury on the right leg. He had a double fracture and was issued with a P3 Form. An implant was inserted at Tenwek Mission Hospital and was still there. He testified that he could not have kicked the deceased as his leg was still recovering. He testified that on the material day he had worn civilian clothes and a mask. However, during the identification parade, they did not have masks on.



There were 2 parades that were conducted. During the first parade the witness Pw8 could not positively identify him while the subsequent parade conducted on December 24, 2020 had different persons in the parade.

16. Daniel Nyameino, senior clinical officer working at Kisii Teaching and Referral Hospital testified as Dw2. He testified that he filled the accused person's P3 form on February 8, 2019 after he sustained injuries in a road traffic accident on December 26, 2015. He suffered an open fracture of the right tibia and fibula and a surgical procedure was done by inserting a nail in the tibia bone and that the nail was still in place at the time Dw2 examined him. He conducted a physical examination and also considered a discharge summary from Tenwek Mission Hospital and an X-ray film. The nature of the injury was grievous harm. He further testified that the nail was to be removed at some point. Based on the injuries sustained by the accused and the nail being in place it is possible that the accused can kick someone but it is unlikely that the impact would damage internal organs.
17. No 236621 Inspector Kwendo Amatsili Wickliffe (Dw3) testified that on the night of December 19, 2020 he received a call from the manager of CJ Club in Kisii town, Mr. Abuga, asking that he helps out 2 of his workers that had been arrested for contravening curfew. He went to the station past midnight that is on December 20, 2020 and on checking the register he noted that 2 suspects had been booked as unknown. He asked that the two suspects be called to the grill of the male cells only to realize that the 2 were his friends. They spoke and he went back home. He returned on December 20, 2020 at 8:00 a.m. and by noon he noticed that one of the suspects had been released. He then asked the deceased in his native mother tongue how he was feeling and the deceased assured him he was fine other than being hungry due to the chronic ulcers which he suffers from.
18. Rebeka Kemuma Ogata (Dw4) testified that on December 19, 2020 she was at work with Pw5 at the report office when Pw8 and the deceased came looking for their wives and he told them that he could not see the prisoners. Pw8 then pulled her colleague and demanded to see the ladies. They were making noise and Pw5 told them to leave. Pw8 grabbed Pw5 and held him by the neck. The patrol team and they helped them put the 2 inside the cells. She testified that she did not see anyone kick the deceased. She recalled that the accused person had gotten to the station before the 2 arrived and asked to see the duty roster and then he left. He was not present when Pw8 and the deceased were at the station.

Submissions By Parties

19. The prosecution submits that their evidence placed the accused person at the scene and his identification was positive devoid of any error. The prosecution's key witness gave a vivid account on what transpired. Pw8 was categorical that the fatal blow aimed at the stomach "the kick" was delivered by the accused. The prosecution relied on the Court of Appeal decision in *Titus Ngamau Musila Katitu v Republic* [2020] eKLR where the court observed that:

"The "blue code of silence" is a common phenomenon, spanning across different countries and police cultures in America, Europe, Asia and even Africa. It is the unwritten rule according to which police officers never provide incriminating information about their colleagues; to close ranks in silence and to cover up knowledge of a fellow officer's wrongdoing with a collective blanket of self-preservation..."
20. The police officers, Pw4, Pw5 and Pw7 placed their colleague at scene but contradicted the key witness and their evidence should be considered in the context of the 'blue code of silence'. Pw8 saw the accused kick the deceased in the stomach area and the assault was so severe and the prosecution submits that they have established the nexus between the said assault and death. They cited the case of *Republic v Peter Njoroge Ndungu* (2022) eKLR. Finally, it was submitted that even if the court were to declare



the parade to have been conducted devoid of scrupulous fairness thus invalid, the identification of the assailant was cogent, credible and free from error. They submit that the accused person's defence was not credible and an afterthought.

21. Counsel for the accused, Mr. Nyamweya filed written submissions. He argued that the witnesses at the scene with the exception of Pw8 did not see the accused kick the deceased. All the police officers noted that the deceased and Pw8 were very drunk. They refuted claims that the deceased was unconscious as Pw10 testified that he found the deceased and Pw8 making a lot of noise outside the report office. They urged the court to consider that the manner in which Pw8 conducted himself on the material day is of a drunken person. They urged the court not to rule out that the fatal injuries sustained by the deceased were from the police officers from the patrol who hit the deceased by gun butts and kicked him. The prosecution had not established that the accused had common intent with the officers who were from patrol. If at all the court is to consider that the injuries were from the accused, then the evidence of Dw2 was that the kicks could not have been lethal to cause damage to the deceased's internal organs as the accused had an implant in his right leg. The injuries sustained the deceased were inconsistent with a single kick. The accused in his defence denied kicking the deceased as he never left the reporting office.
22. Mr. Nyamweya further submitted that in the circumstance of the commotion involving the officers, it was not possible for Pw8 to identify the accused. At the time of the commotion Pw8 was also drunk and he misled the court to consider that the accused did not wear a mask. Secondly, the accused person had been exposed to Pw8 during the first parade in which Pw12 admitted that the accused was a participant. Pw8 therefore saw the accused person before the 2nd parade which was not disclosed to Pw9. It was argued that the Nyanhwa Adventist Hospital was also to blame as they carried out a delicate surgical procedure without ICU facilities and left the deceased to die.

Analysis And Determination

23. I have considered the evidence adduced and written submissions by parties and the only issue before the court is whether the prosecution proved all the ingredients of murder beyond reasonable doubt. The offence of murder under section 203 of the Penal Code is proved when, "Any person who of malice aforethought causes death of another person by an unlawful act or omission." The prosecution must establish beyond reasonable doubt the following three ingredients in order to prove its case; first, it must prove the death of the deceased and the cause of that death; second, that the accused committed the unlawful act that led to the death; and third that the accused committed the unlawful act with malice aforethought.
24. The first issue for consideration is proof of death. It is not in dispute that the deceased died. Dr. Benjamin Ndibile (Pw6), a pathologist working at Kisii County, testified that he conducted a post mortem on the deceased on December 24, 2020. The body was identified by the deceased's brothers Kennedy Alumasa Changuli and Pw2. The body was pale meaning the deceased had lost a lot of blood. The deceased's body also had signs of surgical intervention as there was a surgical mask which had been sutured to mean that the deceased had been taken to theatre for operation. On the right side of the abdomen there was colostomy. He noted that the deceased did not have any defence injuries to mean he was unable to defend himself. On the internal appearance of the body, there was about 2 litres of blood in the abdominal cavity. The stomach was ruptured (4cms in length). There were injuries also on kidney, liver and pancreas. Pw6 formed the opinion that the cause of death was abdominal injuries due to blunt force trauma. He issued a burial permit No. 29866.
25. The accused person has challenged the manner in which the identification parade was conducted. According to the report of the identification parade, the parade was conducted between 5:00 p.m. and 5:30 p.m. on December 24, 2020. The results of the parade were that the witness, Pw8, positively



identified the accused person. However, when the accused was asked whether he was satisfied with the conduct of the parade he stated that he was not satisfied with the parade. He explained that an identification parade was conducted on December 23, 2020 before the DCIO Sameta and he was not identified by the same witness.

26. The evidence of Pw8 and Pw12 indicate that the 2 witnesses were aware of the identification parade that had been conducted on December 23, 2020. Pw8 testified that an identification parade was done on December 23, 2020 and the suspects lined up but it was not safe for him to identify the accused. Pw12 testified on cross examination that the reason for the second parade was that Pw8 complained that the parade was being done in the same environment of the incident, that is, in the reporting area.
27. Interestingly, on December 23, 2020 Pw8 only raised his complaint concerning the environment of the parade after he had participated at the parade and it came to an end. It is not in dispute that he did not identify the accused at said parade. Pw9 who conducted the second identification parade testified that he did not know about the previous parade up until he recorded the dissatisfaction of the accused on how the parade was conducted. Pw9 testified that had he known of the previous parade conducted on December 23, 2020 he would have not conducted the second parade.
28. The accused submits that during the parade they were not subjected to wearing masks yet the incident took place during the covid-19 period when he wore masks. The accused submits that the way the identification parade was conducted was not fair. He testified that although Pw8 was not able to identify him in the first parade, they changed the people who were part of the parade and included persons who were members of public. The accused person in essence, is arguing that the purpose of the identification parade was thwarted when the witness, Pw8 was allowed to see him before second parade and when Pw8 could not identify him on the first parade conducted on December 23, 2020. The Court of Appeal in *Samuel Kilonzo Musau vs Republic* [2014] on the purpose of an identification parade stated as follows:

“The purpose of an identification parade, as explained in *Kinyanjui & 2 Others Vs Republic*(1989) KLR 60, “is to give an opportunity to a witness under controlled and fair conditions to pick out the people he is able to identify, and for a proper record to be made of that event to remove possible later confusion.” It is precisely for that reason that courts have insisted that identification parades must be fair and be seen to be fair. Scrupulous compliance with the rules in the conduct of identification parades is necessary to eliminate any unfairness or risk of erroneous identification. In particular, all precautions have to be taken to ensure that a witness’s attention is not directed specifically to the suspect instead of equally to all persons in the parade. Once a witness has properly identified a suspect out of court, the witness is allowed to identify him on the dock on the basis that such dock identification is safe and reliable, it being confirmed by the earlier out of court identification.”

29. Even though the identification parade was not conducted fairly, there was evidence of Pw4, Pw5 and Pw7 that placed the accused person at the scene when the incident happened. Pw8 testified that the accused person who attacked the deceased was in ‘civilian’ clothing. Pw4 and Pw5 who were on duty testified that they accused was present during the incident. The officers on duty all wore police uniform and the only person with civilian clothing was the accused person. Pw7 who went to the station because he heard the commotion testified that he found 4 officers at the station, 3 in uniform and the accused was also at the station in civilian clothing. Pw4, Pw5 and Pw7 had worked with the accused person and knew him well. Although the accused person in his defence claimed that he was wearing a mask due to the covid-19 pandemic health measure, in my view having worked with his colleagues for 2 months, I



find that Pw4, Pw5 and Pw7 positively identified him. Despite the incident taking place at night, Pw4 testified that the lights at the station were on and they clearly saw the accused person. Therefore, even without considering the evidence from the identification parade, the prosecution evidence is clear that indeed the accused was at the police station during when the deceased and Pw8 came looking for the 2 women on December 19, 2020.

30. The next issue is whether the actions of the accused person led to the death of the deceased. Pw4, Pw5 and Pw7 all testified that they did not see the accused kick the deceased. Pw4 and Pw5 testified that the deceased must have been attacked by the other inmates in the cell as they heard a commotion in the cells after booking the two. I however find that this version of events cannot be true as both Pw4 and Pw5 were not in the cell. Pw8 who was in the cell did not testify as to any attack from the other inmates while he was held in the cell at the police station.
31. Pw8 gave clear testimony that was unshaken on cross examination that the accused kicked the deceased on the stomach and he fell down. Whereupon Pw8 went to help the deceased and he was grabbed by the deceased who started beating him. The vehicle with the 6 patrol officers then arrived. The deceased came back and started punching Pw8 who was being held by other officers. Pw8 recalls that at this time the other patrol officers beat the deceased with the butt of their guns. Based on the testimonies of Pw4, Pw5, and Pw7 placing the accused at the scene during the commotion and the evidence of Pw8 that the deceased was kicked by the person in civilian clothing, the only logical conclusion that can be derived from the prosecution case is that the accused, who was in civilian clothing, was the one who kicked the deceased in the stomach.
32. However, the evidence of Pw8 implies that the accused kicked the deceased once causing him to fall down. Pw6 testified that several kicks could give blunt force but a single kick could not have caused the injuries. According to the post-mortem the deceased had ruptured stomach and had injuries on the pancreas, liver and both kidneys. Dw1 and Dw2 testified that he had sustained an injury following a road traffic accident had a metal implant in his leg and even if he kicked the deceased, the single blow would not have caused the injuries in the deceased's pancreas, liver and both kidneys. I therefore find that the deceased's injuries could not have been sustained from the single kick from the accused person. The injuries sustained by the deceased must have been from the other officers who were hitting him with gun butts. I agree with the submissions of the accused that the prosecution did not establish that the accused and the patrol officers formed common intention to kill the deceased. The prosecution evidence is that the accused person was trying to stop the fight between the 2 civilians who went to the station and the officers at the station. He merely kicked the deceased to stop him from recording a video.
33. Having considered the prosecution evidence in its entirety, I find that the prosecution failed to establish its case beyond reasonable doubt. Accordingly, I enter a verdict of not guilty and do hereby resolve the benefit of doubt in favour of the accused person. For reasons I have given above, I acquit Boniface Maubi Daudi under section 306 (1) of the [Criminal Procedure Code](#) and he is set free unless otherwise lawfully held.

DATED, SIGNED AND DELIVERED ONLINE VIA MICROSOFT TEAMS AT THIS 21ST DAY OF JULY 2023.

R.E. OUGO

JUDGE

In the presence of:

Bonface Maubi/ Accused- Present



Miss Chepkwony h/b Mr. Nyamweya - For the Accused

Mr. Ayodo - State Counsel

Orwasa/ Wilkister -C/A

