



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT SIAYA**

**SIAYA HC. CRIMINAL CASE NO. 1 OF 2017**

**(CORAM: R. E. ABURILI - J.)**

**PETER OWUOR ADOKO.....ACCUSED**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**RULING**

1. The Accused person herein **Peter Owuor Adoko** is charged with the offence of Murder contrary to **Section 203 as read with Section 204 of the Penal Code, Cap 63 of Laws of Kenya**. It is alleged that on 19/1/2017 at 9.00 pm at Ulungo Village in Bondo Sub-county within Siaya County, he murdered **Jared Ouma Otieno**.
2. The accused took a plea of not guilty on 9/3/2017 before Hon. Justice J.A Makau and this case which was handled by Ms. Odumba was set down for hearing.
3. However, albeit there are 6 witnesses present before this court, the prosecution being conducted by Mr. Okachi is of the view that having perused witnesses' statements, they have formed an opinion that the accused person should have been charged with the offence of Manslaughter which is a lesser offence of Murder.
4. The Defence represented by the Defence Counsel Mr. Oduor has after consulting his client, returned a No Objection verdict. The accused person also has no objection to the charge of murder being withdrawn and being substituted with the lesser charge of Manslaughter and the matter being remitted to the lower court at Bondo PM's court for Plea and trial.
5. As the division to institute and continue or withdraw criminal proceedings against the Accused person is the discretion of the Prosecution as stipulated in **Article 157 of the Constitution of Kenya** and as there is no evidence of bad faith the part of the Prosecution, I hereby allow the application for withdrawal of the Murder charge against the accused herein **Peter Owuor Adoko**.
6. Accordingly, I order that the charge of Murder against the accused person **Peter Owuor Adoko** be and is hereby withdrawn under **Section 87(a) of the Criminal Procedure Code**. The accused person is hereby discharged. As the Prosecution intends to charge the accused person with the offence of manslaughter which is triable by the Lower Court, the accused person shall remain in custody and be produced before **Bondo Principal Magistrate's Court for Plea taking on 1/11/2018**.

**Orders accordingly.**

***Dated, Signed and Delivered at SIAYA this 3<sup>rd</sup> Day of October 2018.***

**R.E. ABURILI**

**JUDGE**