

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

CRIMINAL CASE NO. 18 OF 2012

REPUBLIC.....STATE

VERSUS

SAMMY OLOSHIRO.....ACCUSED

JUDGEMENT

The accused **SAMMY OLOSHIRO** faces a charge of **MURDER CONTRARY TO SECTION 203 as read with SECTION 204 OF THE PENAL CODE**. The particulars of the charged were that

“On the 9th day of January, 2017 at Loita Reserve in Narok South District within Narok County murdered HIRUM MUREITHI”

The accused pleaded ‘**Not Guilty**’ to the charge. Despite having been brought to court way back in March 2012, the accused’s trial did not commence until 10/11/2016 almost 3½ years later. Even then the prosecution only managed to avail one witness in the case.

PW1 MILTON OLEKAKA told the court that he went to the scene and saw the body of a man lying in a ditch. He has no idea who killed the man as he did not witness the incident. **PW1** stated that some youths told him that they had seen the perpetrators. None of these ‘**youths**’ was called as a witness. This therefore remains hearsay evidence which is not admissible as against the accused.

No evidence was brought to prove the identity of the deceased. No evidence was adduced to prove the cause of death. The doctor who performed the autopsy did not testify. No post mortem report was produced in court.

All in all the prosecution have failed dismally in establishing a prima facie case. I enter a verdict of ‘**Not Guilty**’ and I acquit the accused of this charge of murder. The accused is to be set at liberty forthwith unless he is otherwise lawfully held.

Dated and delivered in Nakuru this 13th day of February, 2017

Mr. Olonyi for accused

Mr. Chigiti for State

Maureen A. Odero

Judge