



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAKURU**  
**CRIMINAL CASE NO. 70 OF 2012**

REPUBLIC ..... PROSECUTOR

VERSUS

LUKAS MACHARIA MWANGI ..... ACCUSED

**RULING**

The accused **LUKAS MACHARIA MWANGI** was arraigned in court on 19<sup>th</sup> September, 2012 facing a charge of **MURDER CONTRARY TO SECTION 203 as read with SECTION 204 OF THE PENAL CODE**. From that date to the last date the matter was in court on 17<sup>th</sup> August, 2016 not a single witness was availed by the prosecution to testify in this matter. Thus the case remained pending in the High Court for a period of four (4) full years and not even one witness appeared to testify. This is nothing short of scandalous.

The excuse given by the prosecution for their failure to avail witnesses was that the exhibits which had been forwarded to the Government Chemist for analysis had not been released back to the police. On 4<sup>th</sup> November, 2015 the court allowed the prosecution an adjournment to secure these exhibits. Again on 25<sup>th</sup> November, 2013 the exhibits were not available and the court allowed an adjournment to secure them. Yet again on 11<sup>th</sup> March, 2016 when the matter came up for hearing the exhibits were unavailable. The court gave the prosecution a last chance and listed the matter for hearing on 17<sup>th</sup> August, 2016. On this date still the prosecution were not ready citing the same tired excuse of lack of exhibits.

The accused persons are entitled under the Constitution to an expeditious trial. Many lives have been put on hold for a period of close to four (4) years. No serious efforts were made to prosecute this case. The trial cannot be allowed to pend in the courts indefinitely. On 17<sup>th</sup> August, 2016 the court declined to grant the prosecutions 5<sup>th</sup> request for adjournment and the case was closed.

As stated earlier not a single witness testified in this case. For the four (4) years the case was active not an iota of evidence was brought to prove the charge. Clearly no *prima facie* case was established. I therefore enter a verdict of **‘Not Guilty’** and I acquit both accused persons of this charge of murder. Each accused is to be set at liberty unless otherwise lawfully held.

**Dated in Nakuru this 7<sup>th</sup> day of October, 2016**

Ms Kipruto for accused

Mr. Chigiti for State

**Maureen Odera**

**Judge**

**7/10/2016**