

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BUSIA

CRIMINAL CASE NO. 4 OF 2014

REPUBLIC..... PROSECUTOR

VERSUS

GEORGE MUKANDA.....ACCUSED

RULING

1. On 22nd January 2014, acting on some information, Wycliffe Isoka (PW1) The Chief of Moding Location in Busia County visited the home of Peter Juma Karani (the Deceased). Outside the house of the Deceased, PW1, in the company of two policemen, found the body of the Deceased. George Mukanda (the Accused) faces a charge of murdering the Deceased Contrary to Section 203 as read with Section 204 of the Penal Code.
2. When Mr. Owiti appearing for the State addressed this Court on 2nd December 2014, it became apparent that the Prosecution was faced with a daunting task. This is what Mr. Owiti told court;

The Investigating Officer informs me that the witnesses expected here have disappeared to Uganda. We need time to trace them.

3. Indeed it came to pass that when the Prosecution presented the only witnesses it could trace, their evidence was unable to link the Accused person to the death of the Deceased. The substance of the evidence of PW1 is set out in the opening paragraph of this Decision. While the role played by Sgt. Fanuel Injema (PW2) was limited. He re-arrested the Accused who had been arrested by members of the public. He visited the scene where he found the Deceased with multiple cuts on his head and mouth. He recovered what was alleged to be the murder weapon, a knife. He never gave any evidence that incriminated the Accused person.
4. Given the evidence, there is only one Decision I can reach. I am unable to find any evidence that the Accused murdered Peter Juma Karani. Accordingly, I do not find him guilty. He shall be released forthwith unless detained for other lawful cause.

Dated, signed and delivered this 8th day of October 2015.

F. TUIYOTT

JUDGE

In the presence of :-

Oile.....C/Assistant

Owiti.....for State

Makokha.....for Accused.