



**REPUBLIC OF KENYA**

**High Court at Malindi**

**Murder Case 11 of 2011**

**REPUBLIC .....PROSECUTOR**

**V**

**SIDI CHARO**

**BABU KARISA .....ACCUSED**

**RULING**

1.The State charged the accused with the offence of Murder contrary to Section 203 as read with Section 204 of the Penal Code Chapter 63 of the Laws of Kenya. In that on the 11th day of March, 2011 at Ziواني Village in Malindi district within Kilifi county jointly, murdered Hamilton Karisa Yaa.

2.The prosecution called five witnesses. Although there is no doubt from the medical evidence that the deceased was strangled to death early on the morning of the material date, the prosecution has not adduced any credible evidence regarding the identity of the murderers. It seems to me upon reviewing the evidence on record that there was suspicion that the deceased was murdered by relatives because he was thought to be plotting to swindle them of compensation by KETRACO company which was erecting power lines passing across the ancestral family land. It was alleged but not firmly established that the deceased was in the house of the 1st accused on the night before the murder.

3.Further that the extended family of the deceased was very eager to recover a “compensation” card which the deceased supposedly had. And that upon his death the second accused gave such a card to the son of the deceased (PW3) claiming to have picked it up from the ground. This card turned out to be a mere business card bearing the name of an official of KETRACO Company.

4. In my considered view, this was a poorly investigated case and all that was presented as evidence against the accused amounts to no more than suspicion. In the circumstances, the case falls way below *prima facie* standard. The accused have no case to answer and are accordingly acquitted. They are to be forthwith released unless otherwise lawfully held.

Delivered and signed at Malindi this **7th** day of **May, 2013** in the presence of Accused, Mr. Mayaka holding brief for Mr. Lughanje for them, Court clerk – Evans. Mr. Nyongesa for the State.

**C. W. Meoli**  
**JUDGE**