



REPUBLIC OF KENYA

IN THE REPUBLIC OF KENYA

AT KAKAMEGA

CRIMINAL CASE NO. 15 OF 2005

REPUBLIC

VERSUS

DAVID OBWAKA.....ACCUSED

RULING

1. The accused person herein, **David Obwaka**, was charged with the offence of murder contrary to **S.203** as read with **S.204** of the Penal Code. It was alleged that on 28.3.2005 at Emakunda village, Emusire Sub-location, Central Bunyore Location in Vihiga District of the Western Province, he murdered Ibrahim Opati.
2. He was first arraigned in court on 30.6.2005 but only took plea on 11.7.2005 and on that day he denied the offence. The hearing dates were set for 13th and 14th March, 2006 but on the dates, no witness was produced by the State and on 14.3.2006 although 4 witnesses were present, the matter could not be reached. On 25.10.2006, two assessors were absent and although there were 5 witnesses, the matter was adjourned to 26.10.2006 but again assessors were absent. Thereafter although the matter was listed for hearing on more than 13 occasions, not once did it proceed to trial and on 21.9.2010, I granted the State the last adjournment but after that on 1.11.2010, and 17.11.2010, no witness was produced and on the latter date, the case was closed.
3. The effect is that there is no evidence whatsoever, placed before this court and that being the case, no case has been made out to warrant the accused being put on his defence. He has no case to answer and is acquitted. He can be released unless he is otherwise lawfully held.

4. Orders accordingly.

Delivered, dated and signed at Kakamega this 3rd day of March, 2011.

ISAAC LENAOLA

J U D G E