



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)**

Criminal Case 40 of 2009

REPUBLIC.....APPLICANT

-VS

ANTHONY MURIITHI REGERO & 2 OTHERS.....RESPONDENT

RULING

This ruling relates to the objections made by Mr. Mungai Kibe under Sec. 275 of the CPC, Cap. 75, Laws of Kenya. The said section reads as follow;

“Every objection to an information for a formal defect on the face thereof shall be taken immediately after the information been read over to the accused person and not later.”

Apart from the above, the learned Counsel also complained

- (a) about the number of persons who have been charged
- (b) the place where the alleged offence was committed
- (c) and the cause of death

On the other hand, Mr. Gikonyo, State Counsel has opposed the application on the grounds that the State has complied with all the requirements of drafting the information.

This court has carefully considered the above relevant section together the concerns raised on (a), (b) and (c). Having done so, I am satisfied that the information before the court has been drawn properly in accordance with the law. Apart from the above, the State is at liberty to decide on the number of suspects to prosecute in relation to any offence. That will definitely be guided by the evidence available to the State. Besides the above, the place of commission of an offence depends on the evidence that will be adduced in court. In the event of any variance with the information, then the defence Counsel will be at liberty to make appropriate submissions. As far as the cause of death is concerned, it is upon the doctor who conducted the post-mortem to adduce the relevant evidence. In the event of any contradictions, then the defence counsel will be given an opportunity to make appropriate submissions. Basically the objections by the defence Counsel are premature, without any basis and makes presumptions on evidence that has **not** been adduced in court. In view of the above, I hereby dismiss the objections raised since they do **not** have any merit. Those are the orders of the Court.

MUGA APONDI

JUDGE

Ruling read signed and delivered in open court in the presence of Gatonye and Wandugi and Marete for A1, Naikuni for A2 and Mwangi for Gikonyo for Kibe Mungai for A3;

MUGA APONDI

JUDGE

5TH MAY, 2009

Court:

Hearing on 22nd & 23rd June, 2009. Accused remanded in custody.

MUGA APONDI

JUDGE

5TH MAY, 2009