

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT FORT PORTAL**  
**HCT-01-CR-SC-0019 OF 2015**

**UGANDA.....PROSECUTOR**

**VERSUS**

**KAMBA AMOS & ANOTHER.....ACCUSED**

**RULING**

**BEFORE: HIS LORDSHIP MR. JUSTICE WILSON MASALU  
MUSENE.**

The accused, Kamba Amos and another still at large were indicted with the offence of murder Contrary to Sections 188 &189 of the Penal Code Act.

The particulars were that Kamba Amos and another on the 28/3/2013 at Nyamigongo Kirere village, Busoro Sub County in Kabarole District murdered Mwesige Robert.

The prosecution adduced evidence of three witnesses, namely Kabasomi Violet , PW1, the mother of the deceased, PW2 Asiimwe James, the brother of the deceased, and PW3, Joseph Irumba the Vice-Chairman, LC.I, Kirere Nyamigongo village. PW1's brief testimony was that her deceased son disappeared from the village for almost 1½ years. And that when bones were discovered in the bush of Christopher Byaruhanga by workers, with clothes under those bones, it was assumed that the clothes belonged to the deceased. PW2, also maintained that upon discovery of the bones and clothes, he identified the clothes as belonging to the deceased.

PW3, the LC.I Vice Chairman testified that the deceased Mwesige disappeared in 2013 when one Muhumuza had reported a case of assault. PW3 summoned Mwesige three times in vain and he assumed he had run away as usual. Pw3 concluded that he did not go to the scene where fighting took place and did not know who killed Mwesige. PW3 also wondered why accused, Kamba was arrested.

From the foregoing evidence on record, it is clear that no one saw the accused Kamba Amos fighting with the deceased.

Muhumuza, who reported the alleged fight to the Chairman, PW3 is on the ran. And he had reported a case against the deceased.

Pw1, the mother of the deceased, did not report to police or relevant authorities about the disappearance of her son, the deceased. Even PW2, Asiimwe James was not there when the alleged fighting took place and so what he stated that Muhumuza left Kamba fighting the deceased was hearsay.

So whereas the deceased could have died, it is not clear who killed him and why it took long to discover his bones and clothes.

In any case, and as already stated, even PW3, the Vice Chairman was categorical that Kamba Amos, the accused now was never mentioned and he did not know why he was arrested.

The ingredients of the offence of murder, notably whether the death was unlawfully caused, whether it was caused out of malice aforethought and participation of Amos Kamba have not been established. And where all the ingredients of the offence have not been established, then the accused has no case to answer.

I accordingly record a finding of not guilty and acquit the accused, Kamba Amos under S. 73 (1) of the Trial Indictment Act.

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**WILSON MASALU MUSENE**  
**JUDGE.**  
**13.4.2018**