



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KITALE

CRIMINAL CASE NO. 33 (E010) OF 2020

REPUBLIC.....PROSECUTOR

VERSUS

REUBEN OCHENO OBWORA.....ACCUSED

RULING

The accused, **Reuben Ocheno Obwora** was released on bail pending trial when he was arraigned before this court to take plea on the charge of **Murder** contrary to **Section 203** as read with **Section 204** of the **Penal Code**. Apparently, from the record, the Prosecution did not oppose the release of the accused on bail pending trial.

The Prosecution made no application either to vary the terms of bond or to have the bond cancelled until when the mother of the deceased (PW3) testified in court. In her testimony before court, she stated that she was living under constant fear of the accused because of what he had previously threatened he would do to her. PW3 stated that the accused had threatened her with dire consequence because of the dispute that she had with him over land. Incidentally, the accused is the father of the deceased and the husband of PW3. The prosecution now want the bond issued to the accused cancelled. Mr. Nakitare for the accused strenuously opposed the application essentially stating that no grounds had been placed before the court to support the prosecution's application that the accused had threatened PW3.

This court has carefully considered the rival submission made in that regard. It has also considered the allegations of PW3 which was made under oath. On evaluation of the said allegations this court is unable to discern what threat PW3 is currently facing from the accused noting that she alleges those threats were uttered in November 2020. This court wondered what the threats, if indeed the allegations are true, would achieve. It did not intimidate either PW3 or her son PW2 from testifying in the case against the accused.

If PW3 had indicated the court that she had been intimidated from testifying in court against the accused that would have been another kettle of fish. PW3 has now adduced her testimony before court. It was clear to the court that the allegations of threat that she has made maybe were contemporaneous to the time the accused was charged. Since then, it has been more than a year since, according to PW3 herself, she had not communicated with the accused.

That being the case, this court formed the view that the allegations of threats of harm made by PW3 may not be current, but rather, is something that happened in the past with no repeat having been made by the accused (if the allegations are true) since he was arraigned before the court.

The application lacks merit and is hereby dismissed.

DATED AT KITALE THIS 11TH DAY OF NOVEMBER 2021.

L. KIMARU

JUDGE



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