



Reference: Ruto/Sang_TCV(a)_08/09/14

Case Name:
Ruto and Sang

Situation Country:
Kenya

Chamber:
Trial Chamber V(a)

Date: 08/09/14

Type of Proceedings: Trial Proceedings

Parties and Participants Present:

- Judge: Chile Eboe-Osuji (presiding), Olga Herrera Carbuccion, Robert Fremr
- Office of the Prosecutor: Anton Steynberg
- Defence: Karim Khan QC, Joseph Kipchumba Kigen-Katwa
- Accused Present: Joshua Arap Sang, William Samoei Ruto
- LRV: Orchlou Narantsetseg
- Legal Counsel for Witness P-0604: Gregory Mutai

Oral Rulings

The Presiding Judge granted the Prosecution's application to declare Witness P-0604 hostile.

Morning Session

Witness Name/Number: P-604
Appearing For: Prosecution
Protective Measures Provided: The Witness testified via video-link
Witness Details: Male



Examination/Proceedings: Examination-in-Chief Prosecution

Testimony Details

Prosecution Examination

The Witness provided insight on information given in a statement he later declared false in an affidavit submitted 11 August, 2014:

The Witness said that Mr. Ruto did not alienate the PNU supporters opposing his political party, the ODM, but that it might have happened to some PNU supporters, but not all of them. The Witness explained that he had never attended a political rally where Mr. Ruto was present and that it was all made up by him as other parts of his false statement.

The Witness said he had never attended the *harambee* (fundraiser) at the secondary school he mentioned in his statement given to the Prosecution's investigators. The event took place but he never attended it. He knew that the *harambee* took place as he heard about it from locals who were preparing for it, and was thus able to mention it in his false statement. He said that he gave this and the other false information in the statement to 'fix' Mr. Ruto.

The Witness furthermore explained that all details regarding the *harambee*, and two other political rallies mentioned in his statement were false. He was not aware that the political rallies took place, and had just made it all up.

The Witness also said his statement was false in describing events in which Mr. Ruto had said that votes will be stolen by PNU supporters and that Kenya would not remain the same if the ODM didn't win the elections. Once again, the Witness explained that the purpose of mentioning it in his false statement was to 'fix' Mr. Ruto as regards to his alleged involvement in the post-election violence.

The Witness said he had forgotten why dates referring to an ODM political rally in Tarbo were not the same in his diary and the false statement, and that the investigators from the Prosecution had helped him with these entries. He explained that the discrepancy between the two documents, despite the investigators access to the statement when filling the diary entries, was because it was all 'cooked up'. The purpose of lying about the political rally was to show that Mr. Ruto had arranged meetings encouraging hatred between the PNU and ODM supporters, lining up with the false statement.



Witness Name/Number: P-0604
Appearing For: Prosecution
Protective Measures Provided: The Witness testified via video-link
Witness Details: Male

Examination/Proceedings: Examination-in-Chief Prosecution

Testimony Details

The Witness explained that he had lied when claiming to have attended a political meeting in Mr. Ruto's home in mid-December 2007 and had never been in his home on any other occasions. The Witness once again claimed that he wanted it to seem like Mr. Ruto was arranging meeting where violence was planned. He said he knew about the people he had mentioned being present at the meeting from living in the Tarbo area for some time.

The Witness explained that he at the night of 31 December 2007, all of the sudden had heard gun shots coming from the local police station. He was later told that members from ODM and the PNU had met in two different locations and that the police thought they may start fighting and decided to interrupt the masses by firing their guns. The Witness said that he had seen about 150 youth who had removed their shirts and carried branches, but that he was false in his statement when claiming that taking shirts off was to prepare for war.

The Witness moreover denied that the alleged incident of looting mentioned in his statement was true. The Witness said it never happened and that he came up with the incident. He had provided a detailed description, for example mentioning a person stealing a pregnant cow, to make the statement more trustworthy.



Afternoon Session

Witness Name/Number: P-0604
Appearing For: Prosecution
Protective Measures Provided: The Witness testified via video-link
Witness Details: Male

Examination/Proceedings: Examination-in-Chief Prosecution

Testimony Details

The Prosecution continued its examination of Witness P-0604 after the lunch break:

The Witness said he made false accusations against Mr. Sang when stating that he had used language intended to victimize and identify people in the Kikuyu in his radio broadcasts at Kass FM. He did not know Mr. Sang personally and had never met him before and thought it would add more weight to his false statement if he included both Mr. Ruto and Mr. Sang. He explained that he had never listened to Kass FM, not prior or during the post-election violence 2007-2008. He had only heard other people in the community talking about the broadcasts. The reason for not listening to Kass FM was not because of provocative language as previously stated, it was because he liked Radio Citizen more.

Submission Details

The Prosecution, represented by Mr. Steynberg, submitted an application to declare Witness P-0604 hostile. He told the Chamber that he had exhausted all areas he could possibly explore with the Witness about his original statement and that he denied implicating Mr. Sang “even when he did not implicate him”, also arguing that the Witness had been evasive a number of times.

The Legal Representative of Victims, Mr. Orchlon Narantsetseg, supported the application and both of the defence teams opposed it.

The Chamber granted the application, noting the extensive degree in which the witness’ testimony had changed from the statement given to the prosecution.



Next Hearing Date: 09/09/14

Private/Closed Sessions :1h

Summary

The Prosecution continued its examination-in-chief of Witness P-0604 from last week, questioning the Witness on the statement he recorded last year with investigators from the Prosecution with the aim of clarifying which portions were fabricated.

The Prosecution renewed its application from 4 September - asking to declare Witness P-0604 hostile. The Presiding Judge granted the Prosecution's application. Noting the extensive degree in which the witness' testimony diverted from the statement he earlier provided the prosecution.