



Reference: Ruto/Sang_TCVA_16/09/14

Case Name:
Ruto and Sang

Situation Country:
Kenya

Chamber:
Trial Chamber V(A)

Date: 16/09/14

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, Lucio Garcia
- 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
- Legal Counsel for Witness P-0495: James Njoroge Njuguna

Oral Rulings

The Chamber rendered the following two rulings;

- 1) Decided that whenever Witness 495 may incriminate himself, such session would be conducted in private or closed session. The Judge approved the OTP's decision not to pursue charges against the witness for any possible offence under Article 70(1)(c) under the Rome Statute, dealing with provisions on witness interference. The transcript of the testimony would moreover be under seal.
- 2) Granted Witness 495 in-court protective measures, including voice and image distortion in any broadcast of the court proceedings.

Morning Session

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



Examination/Proceedings: Cross-Examination Prosecution

Testimony Details

The Prosecution continued its cross-examination of Witness P-0604

The court went into private session for questions regarding details of a Kass FM radiobroadcast by Mr. Sang.

The Witness provided insight on the contact he allegedly had with a woman from the prosecution, bribing him to provide a false initial testimony to the OTP. He said that the woman initially contacted him by telephone for reasons he doesn't know, and explained that it seemed like the OTP trusted her. He answered affirmative to whether he thought the woman networked the witnesses for the prosecution and that she had asked him to do a number of things that he had refused to do. The court went into private session for more details. The Witness explained that Mr. Terrace had been the one reading out registration numbers of people during a Kass FM broadcast, but that it had been by request of Mr. Sang.

The Witness provided insight regarding a video of a political rally with Mr. Ruto, previously shown by the Defence last week, and some photographs in the Defence's list of evidence. The Witness said that it is possible that Mr. Ruto attended more than one political rally per day as he travelled by helicopter between Nairobi and Edoret. He agreed that the photographs and the video didn't necessarily have to be from the same event. The Court went into private session in reference to the location of the pictures and two additional questions concerning the political rally.

During the last part of the morning session, presiding Judge Eboe -Osuji informed Witness P-0604 that his testimony had concluded, allowed him to leave and discharged the subpoena he was under.

Introduction of the 23rd Prosecution Witness

The Court introduced the 23rd Prosecution witness by video-link from Nairobi, referred to by the pseudonym Witness P-0495, and his lead counsel Mr. James Njoroge Njuguna.

The Chamber rendered the following two rulings in regards to Witness P-0495's testimony after hearing all parties' submissions in private session.

1) Decided that whenever the Witness may incriminate himself, such session would be conducted in private or closed session. The Judge approved the OTP's decision not to pursue charges against the witness for any possible offence under Article 70(1)(c) under the Rome Statute, dealing with provisions on witness interference. The transcript of the testimony would moreover be under seal.

2) Granted the Witness in-court protective measures, including voice and image distortion in any broadcast of the court proceedings.



Afternoon Session

Witness Name/Number: P-0495
Appearing For: Prosecution
Protective Measures Provided: The Witness testified by way of video-link
Witness Details: Male

Examination/Proceedings: Examination-in-Chief Prosecution

Testimony Details

Examination in Chief by the Prosecution of Witness 495

The Court went into private session to sort out if the Witness should testify in English or Swahili.

The Witness explained that the predominant ethnic groups at location 1, where he resided during the 2007 elections, was the Kalenjins but that other groups, such as the Kikujos also could be found. The Witness could not provide an estimate on the percentage.

The Witness said that he never attended any political rallies or meetings held in the area during the 2007 elections. He heard about rallies taking place in Eldoret, Nairobi and other parts of the country but couldn't recall any exact dates or by what political party. He never mentioned anything that had to do with the area Eldoret or rallies when talking to the OTP.

The Court adjourned in private session.



Next Hearing Date: 17/09/14

Private/Closed Sessions: 3h

Summary

During the morning session, Witness 495 provided insight on a Kass FM radiobroadcast, a political rally and contact with an OTP woman who allegedly bribed him to submit his initial testimony.

During the last part of the morning session, presiding Judge Eboe -Osuji informed Witness P-0604 that his testimony had concluded, allowed him to leave and discharged the subpoena he was under.

The Chamber rendered the following two rulings in regards to Witness P-0495's testimony after hearing all parties' submissions in private session.

- 1) Decided that whenever the Witness may incriminate himself, such session would be conducted in private or closed session. The Chamber approved the OTP's decision not to pursue charges against the witness for any possible offence under Article 70(1)(c) under the Rome Statute, dealing with provisions on witness interference. The transcript of the testimony would moreover be under seal.
- 2) Granted the Witness in-court protective measures, including voice and image distortion in any broadcast of the court proceedings.

The Court went into private session for the majority of the testimony during the afternoon session.