

## COURTS

# 32 charged over killings in Mathare

TIMES CORRESPONDENTS

AT LEAST 32 people were yesterday charged with being members of the outlawed Mungiki sect and/or planning the killings in Nairobi's Mathare slums.

The suspects appeared before Judge Kibera Chief Magistrate Catherine Mwangi and denied the charge.

Prosecuting Chief Inspector Peter Ngata told the court that the suspects were arrested in Mathare between October 28 and November 5.

The court also learned that the suspects were arrested by police officers from Kasarani Police Station who were under the command of Inspector Wainaina who led the operation following a spate of killings in the slum.

The magistrate ordered that they be released on a Sh100,000 bond with a similar surety each pending hearing of the case which was fixed for January 11 and 12 next year. They were represented by lawyer Mokono Ondieki.

Meanwhile, the hearing of a case in which a matatu driver is charged with robbery with violence was put off until December 14 by a Kibera court.

Principal Magistrate Hellen Wasilwa adjourned the case saying she had another matter to attend to.

She, however, asked Cecil

Miller who is prosecuting the case on behalf of the State to set a new date for the hearing. Mr Miller was appointed by Attorney General Amos Wako to carry out the prosecution.

Stephen Mungu Mwangi is alleged to have on February 5, 2001 at Aerthaser Institute along Fairlands Third Avenue in Nairobi, while armed with a gun, robbed Dr. Karim Mohammed and his brother Amin Mohammed of over Sh250,000.

The court heard that the accused went to the clinic of Dr. Karim posing as a patient. The court was told that Mwangi was allowed in after signing a security book.

Dr. Karim told the court that as he was preparing to attend to the accused, he (Mwangi) drew a gun from his bag and threatened to shoot him and his brother.

He said the accused who was alone kept on talking on his mobile phone instructing other people to keep guard outside the clinic. Four more witnesses will testify in the case.

In another case, four missionaries charged with incitement to violence were yesterday acquitted by a Kibera court for lack of evidence.

Principal Magistrate Hellen Wasilwa freed Michael Otonga Muleyi, Andrew Orision Sacier, Paul Garcia and Patrick Mutinda Ngei of the offence of inciting a



Some of the suspects who appeared in a Kibera court yesterday charged with being members of the outlawed Mungiki sect and with planning the violence in Mathare slums.

group of Muslim faithful to violence.

The magistrate said the prosecution had failed to prove the charge of incitement to violence against the accused.

She said, Kenya being a democratic country one should prove that the charge of incitement to violence was committed.

The four had been charged that on October 17 at Bulbul Primary School

in Ngong Township, Kajiado District that they jointly incited the Muslim community by distributing provocative publications. The incitement made at Bulbul caused the Muslim community to demonstrate during which they stormed Calvary Baptist Church in Ngong.

They were represented by lawyer K. Wandungi while the prosecution was led by inspector Isaiah Oyoo.

## Chesoni family case against top doctor put off

RICHARD MUNGUTI AND JUMA ALUOCH

THE case against Dr David Silverstein by the family of the late Chief Justice Zachaeus Chesoni was yesterday adjourned to February 15, next year.

The suit was listed for hearing before High Court judges Alnashir Visram and Jackson Ojwang.

It could, however, not proceed because Justice Ojwang is hearing a murder trial against a priest accused of murdering Isiolo Catholic Bishop Luigi Locati.

Two lawyers who defended Silverstein, Byron Georgiadis and Peter Gichuhi, are asking the court to award them costs for two counsel on a higher scale.

The lawyers are asking the court to order a daughter of the late CJ to pay them more for two counsel who defended the top medic in a suit filed against him for professional negligence.

Mary Atsango Chesoni filed a suit against Silverstein for professional negligence claiming that he abandoned the late CJ when he was critically ill and went for holiday.

She lodged a claim with the medical board concerned with alleged professional misconduct but the body cleared the medic.

She appealed against the decision of the medical board which handled the claim against the medic.

The appeal was listed before two suspended judges Justice Daniel Aganyanya and Justice David Rimita.

Justice Aganyanya and Rimita were axed during the purge on alleged corrupt judicial officers.

The suit was listed before judges Philip Ransley and Justice Ojwang who upheld the decision of the medical board.

Mary Chesoni lost her appeal with costs. Now these are the costs which the lawyers for the top medic are asking the court to award on a higher scale.

The family of the late Chesoni was represented by Stephen Andere.

Andere faulted the decision of the medical board saying the former CJ was abandoned during a time of great need.

Justices Visram and Ojwang rejected the appeal by the family of the late Chesoni and ordered costs to be paid to the medic.

Meanwhile, a man who last year defiled a nine-year-old mentally retarded girl in Homa Bay District was yesterday sentenced to serve 15 years in jail.

Senior Resident Magistrate Grace Macharia said the court had taken note of the fact that the accused, Hagai Okoth Onyango, had capitalised on the mental state of the girl to commit the crime.

## Witness claims judge was biased in case

KIPNGENO RUTO

A Witness claimed yesterday that suspended judge Justice Vitalius Juma demanded a deposit of Sh200,000 surety before he would allow an appeal against a High Court judgement. Michael Githuku Mbauni said the demand was part of the judge's bias and discrimination against his mother who was fighting for her matrimonial rights in a succession dispute. Mbauni told tribunal investigating the conduct of suspended judges that Justice Juma then in Nyeri dismissed Catherine Nyaguti's petition in favour of his stepbrother Gregory Maina who had opposed Nyaguti being appointed as the administrator of their late father's estate. Hearing continues.

## Order barring Okungu from travelling lifted

RICHARD MUNGUTI

THE High court yesterday quashed a decision to block the Kenya Pipeline Company Limited (KPC) Managing Director George Okungu from travelling to the US for official duties on grounds that he was being investigated in a Sh500 million fraud at the company.

Justice Joseph Nyamu restrained the Kenya Anti Corruption Commission (KACC) from withholding the passport of Okungu for a period of six months while investigating the alleged multi-million fraud.

Justice Nyamu said that KACC has not shown it has reasonable proof that an offence had been committed by the plaintiff.

## Kanu official gets the nod to amend suit

JOHN OSORO

The High Court yesterday allowed an official of opposition party KANU to amend his application seeking to stop four top officials of the party from presenting themselves as negotiators with ODM-Kenya. Justice Alnashir Visram said Livingstone Kenyatta Obuga was at liberty to amend his suit. The judge said an applicant could not be denied the opportunity to make an amendment to the plaint before the matter goes for full hearing. His lawyers said they would file an amended application before the hearing on November 22. The applicant has sued Uhuru Kenyatta, William Ruto, Chris Okemo and Henry Kosgei, and want the court issue an order stopping them from projecting themselves as legitimate arbiters on behalf of Kanu.

## MP did not get poll papers, says lawyer

JOHN OSORO

PETITION papers challenging the election of Siakago Member of Parliament Justin Muturi were not served on him as required by the regulations, the court of appeal heard yesterday. The process server did not make efforts to serve the MP who was at Mount Kenya Safari club attending a meeting in 2003. The MP's lawyer Evans Monari told appellate judges Justice Samuel Bosire, Philip Waki and Onyango Otiemo that there was no effort made to serve election petition papers on the legislator. But the lawyer for petitioner Mr Paul Wamae, said that he filed three applications and the affidavit.