Republic (Ex-Parte) (Miscellaneous Criminal Application E1717 of 2024) [2024] KEHC 13231 (KLR) (30 October 2024) (Ruling)

Neutral citation: [2024] KEHC 13231 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT KIBERA

MISCELLANEOUS CRIMINAL APPLICATION E1717 OF 2024

DR KAVEDZA, J

OCTOBER 30, 2024

IN THE MATTER OF THE WITNESS PROTECTION ACT NO. 16 OF 2006

AND

IN THE MATTER OF APPLICATION FOR ORDERS OF WITNESS PROTECTION

IN THE MATTER OF

REPUBLIC (EX-PARTE) ..... APPLICANT

RULING

1. The ex-parte applicant filed a notice of motion dated 29th October 2024 under Articles 50(2)(8) and (9) of the *Constitution* of Kenya, Sections 4(3), 5, 7, 15, and 16 of the *Witness Protection Act*, Rule 17 of the *Witness Protection Rules 2015*, and other relevant provisions. The applicant sought orders for witness protection in JKIA Criminal Case No E148 of 2024, specifically for witnesses to testify via video link, with their identities redacted before disclosure to the accused. Additionally, the applicant prayed that the witness to use pseudonyms during testimony and for the media to be restricted from revealing the witness's identity. The applicant further prays that the matter be handled with strict confidentiality and any additional protective orders the court deems appropriate.

2. The grounds supporting the application as averred in the affidavit in support of the application are that the intended witness is key to the case against the accused persons. The applicant seeks interim protective measures pending a risk assessment by the Witness Protection Agency to determine the witness's eligibility for the programme. The requested orders will complement the protections already provided by the Director of Criminal Investigations. He urges that court to allow the orders which are in the public interest.

3. Having considered the application, supporting affidavit, and relevant law, I am satisfied that the matter is of utmost urgency. Based on the evidence presented, the witness qualifies for legal protection in line with Article 50 of the *Constitution* of Kenya. Consequently, I hereby make the following witness protection orders in JKIA Chief Magistrate's Court Criminal Case No E148 of 2024:

   i. The application dated 29th October 2024 is certified urgent and confidential.

   ii. The subject witness shall testify in camera from the witness protection box.

   iii. The name of the subject witness shall be redacted before being disclosed to the accused persons.

   iv. The subject witness shall use a pseudo name in giving testimony before court as may be assigned by the investigation team.

   v. The media both print and broadcast are hereby barred from disclosing the name and images of the subject witness.

Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 30TH DAY OF OCTOBER 2024

_____

D. KAVEDZA

JUDGE