



**Onunga v Republic (Miscellaneous Criminal Case E194 of 2023)
[2023] KEHC 17855 (KLR) (Crim) (29 May 2023) (Ruling)**

Neutral citation: [2023] KEHC 17855 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
CRIMINAL
MISCELLANEOUS CRIMINAL CASE E194 OF 2023**

DR KAVEDZA, J

MAY 29, 2023

BETWEEN

EZEKIEL ONUNGA APPELLANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant Ezekiel Onunga filed a notice of motion application under section 81 of the *Criminal Procedure Code* (CPC). The application is supported by the affidavit of Ezekiel Onunga equally dated May 15, 2023 seeking orders inter alia that:
 - a. This matter be certified urgent and service be dispensed with in the first instance.
 - b. The court be pleased to order that Criminal Case No. 1273 of 2018 at the Makadara Law Courts be transferred to Milimani Law Courts or in any other Court that this court will deem fit to allocate the same.
2. The powers of the High Court to order change of venue of a criminal trial is provided for under section 81 of the *CPC*. Furthermore, section 81(4) provides that an accused person making such an application shall give to the Director of Public Prosecutions (DPP) notice in writing of the application, together with a copy of the grounds on which it is made, and no order shall be made on the merits of the application unless at least twenty-four (24) hours have elapsed between the giving of the notice and the hearing of the application. I have not seen any evidence of compliance with the said provisions of the law, therefore, the orders sought cannot be granted ex parte.

Having so stated, I proceed to issue the following orders: -

- a. That the application is not certified urgent.



- b. That the lower court proceedings to be typed, certified and availed to this court on or before 14/6/2023.
- c. That the matter be mentioned on 21/6/2023 for directions.

RULING READ AND DELIVERED IN ABSENCE OF BOTH PARTIES THIS 29TH DAY OF MAY 2023.

D. KAVEDZA

JUDGE

