



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAROK

CRIMINAL REVISION NO 137 OF 2018

REPUBLIC.....APPLICANT

VERSUS

ENOCK KIPKORIR RONO.....1ST RESPONENT

ROBERT KORIR KIBET.....2ND RESPONDENT

WELDON KIPROTICH RONO.....3RD RESPONDENT

NICHOLAS KIMUTAI NGENO.....4TH RESPONDENT

PATRICK KORIR KIPLANGAT.....5TH RESPONDENT

AMOS RONO.....6TH RESPONDENT

COSMAS MUTAI.....7TH RESPONDENT

(Being a reference from the trial court in Criminal Case No.1070 of 2018 of the Chief Magistrate's court at Narok, 1. Enock Kipkorir Rono 2. Robert Korir Kibet 3. Weldon Kiprotich Rono 4. Nicholas Kimutai Ngeno 5. Patrick Korir Kiplangat 6. Amos Rono 7. Cosmas Mutai v. R)

RULING

1. The trial court pursuant to its powers under section 81(2) of the Criminal Procedure Code (Cap 75) Laws of Kenya has sought directions in respect of the trial venue.
2. The issue raised in this instant reference is whether the Chief Magistrate's court in Narok should try and determine the case of the respondents who are charged with the offence of preparation to commit a felony contrary to section 308 (1) of the Penal Code (Cap 63) Laws of Kenya. In the particulars of the charge, it is alleged that: *"on the 25th day of September 2018 at about 1930 hours at Olenguruoni District within Nakuru County were jointly armed with dangerous/offensive weapons namely 1. Five bows 2. Twenty six arrows 3. One spear 4. One panga in circumstances that indicated you were so armed with intent to commit a felony to wit Grievous Harm."*
3. The venue of trial of persons charged with the offences is governed by section 71 of the Criminal Procedure Code. The provisions of that section state as follows: *"subject to the provisions of section 69, and to the powers of transfer conferred by section 79 and 81, every offence shall ordinarily be tried by a court within the local limits of whose jurisdiction the accused was apprehended, or is in custody on a charge for the offence, or has appeared in answer to a summons lawfully issued charging the offence."*
4. Furthermore, under section 81(1)(c) and (d), the High Court is empowered to direct the venue of the trial of the respondents where that venue would tend to the general convenience of the parties or witnesses. A transfer may also be ordered by this court if the view of the place where offence may have been committed is necessary. *(see MPS Boghan v. R, (1951) 18 EACA 152).*
5. In the light of the foregoing, it appears that the offence is alleged to have been committed at Olenguruoni. And the nearest court to Olenguruoni is the Chief magistrate's court at Molo.
6. In the circumstances, I find that the chief magistrate's court at Molo is a convenient trial venue for the hearing and determination of this case.

7. I therefore order this case to be transferred to that court for hearing and determination.

It is so ordered.

Order dated and signed at Narok this 20th day of December 2018.

J. M. Bwonwonga

Judge

20/12/2018