

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAJIADO

CIVIL MISC. APPLICATION NO. 3 OF 2016

KORDUNI OLE MOONKA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

KORDUNI OLE MOONKA hereinafter referred as the applicant filed a chamber summons application before this court on 3/3/2016 seeking the following orders pursuant to section 349 of the Criminal Procedure Code. That this court be pleased to grant leave to appeal out of time as a pauper that the filed memorandum grounds of appeal to be considered.

The chamber summons is supported by his own affidavit. He explains that he was convicted and sentenced to 15 years imprisonment for the offence of gang rape contrary to section 10 of the Sexual Offences Act. It is further averred that he was dissatisfied with both conviction and sentence as outlined in the grounds stipulated in the memorandum of appeal. That upon conviction the family member promised to hire an advocate but due to lack of financial resources the appeal time lapsed. That his appeal has overwhelming chances of success.

In reply Mr. Akula for the respondent did not oppose the application.

I have considered the applicant, submissions by the applicant and also perused the record. The applicant has explained the reasons why he could not appeal within the 14 days provided for under the law. I therefore grant the prayers sought as follows:

- 1. That the applicant be allowed to file his appeal out of time.**
- 2. The deputy registrar to ensure preparation of the record and service upon the applicant within 30 days from today's date.**
- 3. The applicant to file his appeal within 14 days from the date of this order.**

Dated, delivered and signed in open court at Kajiado on 21/7/2016

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R. NYAKUNDI

JUDGE

Representation:

Applicant present

Mr. Akula for the Director of Public Prosecutions

Mr. Mateli – Court Assistant present