



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT MACHAKOS**

**CRIMINAL MISC. APPLICATION NO. 110 OF 2014**

**ALEX KIIO MAKAU ..... APPLICANT**

**VERSUS**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The application dated 25/5/2014 seeks orders, *inter-alia*, that this case be transferred from **Kithimani Law Courts**.

2. The Applicant, **Alex Kiiio Makau** was charged with the offence of house breaking contrary to **section 304 (1) (b)** and stealing contrary to **section 279 (b)** of the **Penal Code**.

The particulars being that “on the 31<sup>st</sup> day of December 2012 at about 11.00 hrs at **Matuu Township** in **Yatta District** within **Machakos County**, broke and entered into a dwelling house of **Damaris Leah, Nyambura** with intent to steal and did steal therein three academic certificates, 1 Panasonic radio, L.T DVD machine, cooking fats, two inner top weaving valued at Kshs.34,180/=the property of the said **Damaris Leah Nyambura**.”

3. The background facts according to the affidavit in support is that the complainant who is a wife to the Applicant made an application to have the case withdrawn from court and settled at home but the application was rejected by the court. The Applicant accuses the trial magistrate of being biased, hence this application.

4. The application was conceded to by the State. Consequently, for justice to be not only done but be seen to be done, I allow the application. The case is hereby transferred to **Tawa Law Courts**. Case to be heard *de novo*. Mention on 19/3/15 at the **Principal Magistrate’s Court, Tawa**.

**B. THURANIRA JADEN**

**JUDGE**

**Dated and delivered at Machakos this 18<sup>th</sup> day of February 2015.**

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**B. THURANIRA JADEN**

**JUDGE**