



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
CRIMINAL REVISION NO. 74 OF 2013

KIRTI RANWAL VANGA APPLICANT

VERSUS

REPUBLICRESPONDENT

RULING

By way of a letter dated 9th July, 2013 addressed to Court the applicant prays that the three witnesses who testified on 24th May, 2013 in the absence of Counsel be recalled for purposes of cross-examination.

I have called for Criminal Case No. 2198 of 2012. Republic – Vs- Kirti Ranwal Vanga and I have perused the same and I am satisfied that on 24th May, 2013 three witnesses did testify in the absence of counsel for the Accused.

They were not cross-examined. An application was made on 25th June, 2013 for recalling them which application was rejected citing article 159 (2) (a)(b) and (d) of the Constitution.

The trial Court does not appear to have balanced as it ought to have done the need for a quick disposal of the hearing with the provisions of article 50 of the same Constitution for a fair hearing. One of the cardinal principles of natural justice is to hear the other party.

The application for recalling of the witnesses was meritorious. It ought to have been granted.

The order rejecting the application is hereby varied to the extent that the the three wittinesses who had testified and were not cross-examined be recalled for purposes of cross-examination only.

Ruling delivered dated and signed this **16th** day of **December, 2013**.

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M. MUYA

JUDGE

16TH DECEMBER, 2013

In the presence of:-

Mr. Mureithi state counsel

Court clerk Gitonga

M. MUYA

JUDGE

Court: Matter to be mentioned before the trial Court on 18th December, 2013 for further directions.

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M. MUYA

JUDGE

16TH DECEMBER, 2013