



**REPUBLIC OF KENYA**

**High Court at Machakos**

**Criminal Revision 632 of 2012**

**CHARLES NDUVA MUVAKA ..... ACCUSED/APPLICANT**

**VERSUS**

**REPUBLIC ..... PROSECUTOR/RESPONDENT**

**RULING**

**Court:** I do not see any justifiable reason to conclude that there is bias on the part of the trial court. In my view, bias has to be demonstrated in the conduct in court and reasons given. The fact that a witness is a government officer, and that the magistrate ends up I the same social place with the witness after work, per se, does not demonstrate bias unless there is other information such as where there is evidence they are discussing the case.

I find no justifiable reason for the disqualification of the trial court. I set aside the order of the trial magistrate disqualifying himself. I order that the case do proceed before the same trial magistrate according to law.

**George Dulu  
Judge**

**Court:** Mention before the trial court on 7/1/2013.

Dated and delivered at Machakos this **18<sup>th</sup>** day of **December** 2012.

**George Dulu  
Judge**

**In presence of:**

Mr Mukofu for State  
Accused present  
Mutinda – Court clerk