

provided as follows:-

“When a person is accused of the commission of an offence by reason of anything which has been done or of any consequence which has ensued, the offence may be tried by a court within the local limits of whose jurisdiction the thing has been done or the consequence has ensued.”

5. In this case the offence which the applicant is charged with occurred in Lodwar. The provisions of Article 50 of the Constitution only guarantee an accused person a fair trial. It does not give an accused person the right to choose the court where his trial should be held. It is the applicant who chose to engage a Senior Counsel from Kitale to represent him; this should be at his own expense. It follows that the applicant should have foreseen the travelling expenses involved for a Senior Advocate. The trial cannot be transferred to suit the convenience of an accused person. Because if that was the case who will bear the costs of transporting the prosecution witnesses? The court has to balance all the interests of all the parties and interpret the provisions of a fair trial purposefully.

6. It is common ground that the applicant was based in Lodwar and that is where the offence took place and where he is facing the charge. I am of the opinion that allowing this application, would impact negatively on the administration of Criminal Justice. It will also send a dangerous precedent which can snow ball into an avalanche of applications where all the accused persons in the country may wish to transfer their cases to a place of their convenience. I am not persuaded that a trial of the applicant before the Senior Resident Magistrate at Lodwar will not afford him a fair trial or it will result in substantial injustice. The applicant exercised his Constitutional right to choose to be represented by a Senior Advocate from Kitale. It follows that he should bear the cost of his own choice of an advocate. This application thus cannot be allowed and it is hereby dismissed.

Ruling read and signed on this 24th day of June, 2011.

**MARTHA KOOME.
JUDGE.**