



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)

Criminal Case 11 of 2009

REPUBLIC.....PROSECUTOR

-VERSUS-

DICKSON MWANGI MUNENE.....1ST ACCUSED

ALEXANDER CHEPKONGA FRANCIS.....2ND ACCUSED

RULING

Coram: Lesiit, J

Elisha - court clerk

1st accused - present

2nd accused - present

Mr Ndemo/Kaigai/Muli for state

Mr. Kioko/Mr. Kilukumi for 1st accused

Mr. Murgor/Mr. Kiprop/Kurgat for 2nd accused

Mr. Mutua/absent for family/estate of deceased.

Court –

I have had occasion to read part of a letter addressed to the Deputy Registrar of this court and signed by Mr. P.K. Murgor and dated 18th November, 2009. My comments of the letter in brief are:

- (1) **There is obvious innuendo that the Presiding Judge of the case has been drawn into some compromise, or is part and parcel of a conspiracy against the interests of the accused persons in this case.**
- (2) **This a serious breach of professional etiquette and conduct. It is a sign of malicious and covert impunity exercised without any caution or professional restraint. It is a conduct unbecoming of a learned counsel, especially of the stature of the signatory of that letter.**

- (3) As the Presiding Judge in this case I see a deliberate attempt to draw the court into a web of “behind the scenes sideshows” or circus. The court has no business getting involved in side shows or being drawn into such webs.
- (4) As the presiding officer of this case I find it will not be to the interest of justice, law, order and the rule of law to continue handling this matter. Justice is best seen to be done not just to be done. From the letter and spirit of the said letter, which now forms part of the record of this case, I get the clear, distinct and unmistakable notion that the counsel who signed the letter, together with his client, will not have the required respect for this court to enable it discharge its duty. I do not wish to defend my record or prove any point by hanging on to this case. It is best I release it at the earliest opportunity.
- (5) For the reasons I have set out hereinabove I hereby disqualify myself from further trying the accused persons in this case.

LESIT

JUDGE

Court – Accused person will be remanded in custody for mention for purposes of fixing hearing dates on 12th March, 2010.

LESIT

JUDGE

26/01/2010