

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

Criminal Appli 546 of 2007

MUSLIM HUMAN RIGHTS FORUM.....APPLICANT

(AI AMIN KIMATHI)

VERSUS

REPUBLIC.....RESPONDENT

RULING

I have considered what was stated by the learned State Counsel Mr. Warui regarding the non-attendance in court on 17/9/2007 by police officers who were summoned to appear in court. I have also considered the submissions of Mr. Ndubi for the applicant. The State Counsel showed me a letter dated 12th September 2007 summoning the police officers to attend court. He now states that he was called on phone in the morning of 17/9/2007 by the Commandant Anti-Terrorism Police Unit to tell him that the said commandant and the other police officers who were summoned to appear in court are engaged in a Presidential function in Western Province, which particular function was not disclosed.

I do not believe in what the Commandant of the Anti-Terrorism Police Unit, Mr. Kamwende, has told the State Counsel on phone. I indeed, take a serious view of this as it cannot be that all the police officers who have been summoned to appear in court, are suddenly assigned to a Presidential function. The commandant has not even indicated a date or dates on which he and the said police officers will be able to come to court, nor has he indicated how long the presidential function will take.

I however give them another chance. I order that the same police officers do appear in court on 8/10/2007 at 9.00 a.m. for the hearing of this case. On that date they will have to explain individually why they failed to appear in court on 17/9/07. Summons should issue to them for their appearance accordingly.

Let me make it clear that if they do not appear in court as directed above, warrants of arrest will be issued.

The same orders herein apply to Miscellaneous Criminal Applications No. 547 of 2007 and No. 548 of 2007.

Dated at Nairobi this 18th day September 2007.

George Dulu

Judge

In the presence of –

Mr. Ndubi for applicant

Mr. Makura and Ms. Gateru for respondents

Eric - court clerk