

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MACHAKOS

Crim Misc 26 of 2006

MULI

NZUVEAPPLICANT

VERSUS

REPUBLICRESPOND

ENT

RULING

The applicant in this application sought a transfer of the Kilungu Criminal Case no. 480 of 2005 to the Chief Magistrate's Court at Machakos for hearing and final determination. Before this application could be heard the trial magistrate forwarded the case to this court effectively making this application overtaken.

This practice where the trial magistrates effectively transfer cases before them without relevant orders is illegal and must cease. The High Court or the Subordinate Court of the first class which have powers to transfer cases to themselves or to other court below them, do so on good lawful grounds. An inferior court like in this case should not and has no authority to transfer a case to a senior court. This note should be observed in the future.

Kilungu Criminal Case No. 480 of 2005 is hereby transferred to Machakos Chief Magistrate's Court for hearing and final determination.

D.A. ONYANCHA

JUDGE

11/7/06