



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT MACHAKOS**  
**Criminal Revision 205 of 2006**

**JOHN MUTEMI NZOMO**

**JOSEPH KIMWELE NGUU ..... APPLICANTS**

**VERSUS**

**REPUBLIC ..... RESPONDENT**

**R U L I N G**

The applicants have written to this court seeking a transfer of SRMC Cr. Case No. 1361 of 2004. The applicants had already informed the presiding magistrate that they had no faith in him. They did not give grounds of their losing faith in him.

I have also examined the court file and the reasons advanced to this court in writing for seeking transfer of their case. I am not satisfied that the applicants have adequate grounds for seeking transfer.

I am conscious of the concept that justice needs to be seen to be done. But I am also aware that transferring a trial going on before a court officer is in a way demonstrating lack of confidence in him. Unless this issue is handled with care, it will possibly lead to the undermining of the integrity and dignity of the officer presiding in the case. While every case will therefore be handled on its own merits, in this case the applicant have failed to persuade this court in their favour. Accordingly their application for transfer of their case is hereby rejected.

**Order:**

1. The trial shall proceed from where it halted by the same presiding magistrate until its conclusion.

**D.A. ONYANCHA**

**JUDGE**

**19/10/06**