



**IN THE HIGH COURT OF KENYA AT NYERI**

**Misc Appli 43 of 2005**

**REPUBLIC ..... APPLICANT**

**VERSUS**

**CHARITY WANJIRU MUHUHE ..... RESPONDENT**

**R U L I N G**

The Attorney General seeks leave of this court to appeal out of time against the judgment of P.C. Tororey S.R.M. delivered on the 9th June 2005. The delay in filing the appeal is attributed to the delay in obtaining copies of the proceedings and judgment from the court.

According to the certificate of delay annexed to the affidavit of Charles Orinda sworn on 9th November 2005, the copies of the proceedings were issued on the 27th June 2005.

Mr. Orinda however depones in his affidavit sworn on 18th August 2005 that the proceedings were only delivered to their offices by the complainant about 17 days later on the 14th July 2005.

It is evident that the delay in filing this application is not strictly the fault of the court but the delay by the complainant in seeking assistance from the office of the Attorney General. This delay has not been explained. Moreover the case in the lower court was prosecuted by an Inspector of police for and on behalf of the Attorney General under section 85 (2) of the Criminal Procedure Code. There is no reason why the police department did not take the initiative to seek directions from the Hon. Attorney General with regard to the intended appeal. I find therefore that the applicant has not shown any good cause to justify the admission of this appeal out of time. The application is accordingly rejected.

**Dated signed and delivered this 7th day of December 2005**

**H. M. OKWENGU**

**JUDGE**