

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT ELDORET

MISC CRIMINAL APPLICATION 10 OF 2004

DAVID JUMA MWASHIAPPELLANT

VERSUS

REPUBLIC RESPONDENT

RULING

The application before me emanates from the appellant who appears to have been dissatisfied with an order delivered on 21.4.2004 by the Senior Resident Magistrate, in charge of Children’s Court at Eldoret.

The petition of appeal which is record, having been filed in 30.4.2004 displays 5 grounds, and if I understood Mrs Nyaundi, the appellants counsel well, her client is aggrieved by the fact that the learned trial Magistrate decline to dismiss the case against him and instead adjourned it severally.

Unfortunately, I am unable to get the full gist of the grievance, as the applicant failed to annex all documents such as the contentious order, to enable the court deal with the matter from a position of knowledge.

Be that as it may, the applicant does not indicate under which order he has moved the court, again leaving the court to grope in the dark.

Counsels are very well aware of the fact that he who doesn’t state clearly, what provisions of the law he chooses to move the court under does so at his own peril. Counsels must be clear and concise in their applications. It is not for the court or the respondents counsel to start guessing which would be the applicable law, or even then which are the orders which a party wishes to appeal against. Days of ambiguity in application in these courts should be brought to an end.

I find that the application is not only devoid of merit, but that is premature.

I do in the circumstances decline to grant the orders being sought herein and application is hereby dismissed.

Dated and delivered at Eldoret this 11th day of May 2004.

JEANNE GACHECHE

JUDGE

Delivered in presence of;