



**REPUBLIC OF KENYA**

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

**CRIMINAL CASE NO. 154 OF 2002**

**SAMUEL NJOROGE KARANJA.....APPLICANT  
VERSUS  
REPUBLIC.....RESPONDENT**

**R U L I N G**

The applicant herein has moved the court for orders that the Attorney General be summoned to show cause why the charge under Section 296(2) of the Penal Code facing the applicant should not be withdrawn and that the case be transferred from Kikuyu Court to any other Court of competent jurisdiction in Nairobi.

The application is supported by an affidavit annexed thereto. In respect of the first prayer, the Attorney General has the power bestowed by law to file the charge provided there is sufficient evidence to sustain the same. Whether or not the charge should stand the way it is, is a matter of evidence and it would be premature to make an order such as the one sought by the applicant.

The second order sought by the applicant is, in my view administrative but underlined by the law that demands a fair trial. The issues raised by the applicant may not be isolated. In that regard, I must mention here that on reading the application, I consulted with the Chief Court Administrator as the concerns raised by the applicant go to the root of administration of justice. It is not necessary to delve into what transpired in that consultation.

Suffice is to say, the delay upon which the applicant's apprehension is based may be real and if as he says the charges may have been raised against him to settle personal differences, then the case would be transferred to another court of competent jurisdiction.

Accordingly I, order that the case against the applicant shall and is hereby transferred to the Chief Magistrate's Court Nairobi for directions as to hearing. The applicant shall appear before the Chief Magistrate on 26th February, 2002 for mention for such directions. I further direct that this ruling be served upon the Chief Court administrator to address the issue of co-ordination between the courts and prisons department in respect of transportation and delivery of prisoners from Kamiti Prison to Kikuyu Court.

Orders accordingly.

Dated and delivered at Nairobi this 19th day of February, 2002

**A. MBOGHOLI MSAGHA**

**JUDGE**