



**Republic v Njau & 2 others (Criminal Revision E001 of 2024)
[2024] KEHC 47 (KLR) (16 January 2024) (Ruling)**

Neutral citation: [2024] KEHC 47 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION E001 OF 2024
DR KAVEDZA, J
JANUARY 16, 2024**

BETWEEN

REPUBLIC APPLICANT

AND

MICHAEL MBUGUA NJAU 1ST RESPONDENT

CHRISTOPHER NJAU MBUGUA 2ND RESPONDENT

CHARLES KINYANJUI MBUGUA 3RD RESPONDENT

RULING

1. The applicant filed a notice of motion dated January 15, 2024 under certificate of urgency seeking the revision of the ruling delivered on January 9, 2024 at Kibera Chief Magistrate’s Court Miscellaneous Criminal Application No E009 of 2024. The application is supported by an affidavit sworn by the Allen Mulama, Principal Prosecution Counsel.
2. The averments made are that the state through PC Dennis Were sought custodial orders at Kibera Chief Magistrate’s Court seeking the detention of the respondents for twenty one (21) days pending the completion of investigation into the death of George Njui Mwaura. The court granted the orders sought and detained the respondents for fourteen (14) days. Being dissatisfied with the orders granted, the respondents filed an application before another magistrate court seeking the release of the respondents. The court admitted the respondents to a cash bail of Kshs 50,000 in addition to a bond of Kshs 300,000 with one surety. The applicant is now challenging the decision to admit the respondents to bail/bond.
3. I have considered the application, the Affidavit in support and the applicable law. I have also perused the lower court record wherein the impugned orders were granted. I note that the decision of January 9, 2024, was issued by a magistrate of concurrent jurisdiction. A magistrate court has no jurisdiction to enquire into or review the propriety of the decisions of a fellow magistrate, who is of



concurrent jurisdiction as himself. In our system of courts, which is hierarchical in nature, magistrates of concurrent jurisdiction do not possess supervisory jurisdiction over each other.

4. Having examined the lower court record, I find that there was an impropriety and irregularity of the findings of the court in admitting the applicants to bail/bond. The court had not jurisdiction to review the orders of a court of equal or superior status.
5. The upshot of the above is that the orders issued by the magistrate court on January 9, 2024 are hereby set aside and the orders issued on January 5, 2024 are hereby reinstated.

Orders accordingly.

RULING DATED AND DELIVERED THIS 16TH DAY OF JANUARY 2024

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D. KAVEDZA

JUDGE

In the presence of:

Mr. Mulama for the State Applicant

Ms. Komagum for the respondents

Joy Court Assistant

