



**Waithaka v Republic (Miscellaneous Criminal Case 40 of 2023)
[2024] KEHC 1406 (KLR) (15 February 2024) (Ruling)**

Neutral citation: [2024] KEHC 1406 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
MISCELLANEOUS CRIMINAL CASE 40 OF 2023
DR KAVEDZA, J
FEBRUARY 15, 2024**

BETWEEN

PETER MACHARIA WAITHAKA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant vide a letter undated has sought revisionary orders from this court on the grounds that the trial magistrate has declined to approve his bond and that he has not given any reason for the said refusal. He therefore seeks an order to compel the magistrate to approve his bond.
2. I have carefully gone through the lower court record. At the outset I wish to state that the trial magistrate is not a party to three proceedings. The court record reveals that the applicant has been charged with these similar offences and the cases are pending before three different magistrates.
3. On 5.10.2023 the applicant's surety one Joseph Karanja presented himself before the duty court for approval of bond. The magistrate realized that the said surety had previously stood surety for the applicant herein in a matter pending before court No. 6, hence declined to approve the bond. The duty court therefore referred the matter back to the trial court No. 4 to deal.
4. On 31.10.2023, the same surety Karanja Mwangi appeared before court No. 4 again purporting to stand surety for the applicant. The court declined to approve the bond, and in my view rightly so.
5. The applicant was properly guided to find another surety but decided to take the same surety to court No. 4. The surety appears to be one on hire.
6. I have thus failed to establish any irregularity, illegality on impropriety on the part of the trial magistrate.
7. I accordingly find no merit in the applicant's application for revision and dismiss the application.



RULING DATED AND DELIVERED VIRTUALLY THIS 15TH DAY OF FEBRUARY 2024

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D. KAVEDZA

JUDGE

In the presence of

Mr. Mangare for the Respondent.

Mr. Mukundi for the Applicant

Joy/Nelson – Court Assistant

