



ODPP v Mwaringa & 4 others (Miscellaneous Criminal Application E068 of 2024) [2024] KEHC 6765 (KLR) (6 June 2024) (Ruling)

Neutral citation: [2024] KEHC 6765 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MALINDI
MISCELLANEOUS CRIMINAL APPLICATION E068 OF 2024**

SM GITHINJI, J

JUNE 6, 2024

BETWEEN

ODPP APPLICANT

AND

KARISA MAE MWARINGA 1ST RESPONDENT

LUCKY JOHN KATONGO 2ND RESPONDENT

MWARINGA MAE MWARINGA 3RD RESPONDENT

JAPHET KAHINDI KAZUNGU 4TH RESPONDENT

RICHARD KAHINDI MENZA 5TH RESPONDENT

RULING

Representation:

Mr Mouko for the Accused Persons

Ms Kambag for the state

1. I have gone through the application and the affidavit. Two of the witnesses are officers working with NIS. If they feel exposure to the public during the evidence adducing process will endanger their lives, it is only fair that they offer evidence in circumstances in which they feel safe. This won't prejudice the defence in anyway. We know the circumstances under which NIS officers work and it's unfair to expose them to identification by the public. The danger is not from the suspects and the fact that the suspect knows them does not therefore count.
2. We have been promised by the state that granting the orders won't delay hearing in anyway as they will proceed on the first hearing date. The greater concern of defence which is delay is therefore sufficiently addressed.



3. The suspects are not endangered probably by the pendency of the matter as it could be on other issues. Though delay is abhorred, this should not be an issue to decline protection of a witness whom the state feels and the witnesses, that they need protection. Having said that I do order that the 3 stated witnesses be placed under protection during the hearing of the case, as sought. Application is granted as prayed.

RULING READ, SIGNED AND DELIVERED AT MALINDI THIS 6TH DAY OF JUNE, 2024

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S.M. GITHINJI

JUDGE

In the Presence of: -

1. Mr Mouko for the Accused Persons
2. M/s Kambaga for the State (ODPP)

