



Baraka Credit Limited v OCS Isiolo Police Station & 2 others (Criminal Revision E070 of 2023) [2023] KEHC 22520 (KLR) (21 September 2023) (Ruling)

Neutral citation: [2023] KEHC 22520 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
CRIMINAL REVISION E070 OF 2023
TW CHERERE, J
SEPTEMBER 21, 2023**

BETWEEN

BARAKA CREDIT LIMITED APPLICANT

AND

OCS ISILO POLICE STATION 1ST RESPONDENT

DIRECTOR OF PUBLIC PROSECUTION 2ND RESPONDENT

MICHAEL MUHORO KAMAU 3RD RESPONDENT

RULING

1. The brief facts in the proceedings from Isiolo CM Misc Criminal Case No E016 of 2022 and the affidavit filed in this case reveal that Michael Muhoro Kamau (3rd Respondent) was charged in Isiolo Criminal Case. No E606 of 2021 with the offence of trafficking and or conveying narcotic drugs using M/V KCF xxx which was impounded upon his arrest.
2. By a ruling dated September 1, 2022, the trial magistrate dismissed the Applicant's application dated February 4, 2022 filed in Isiolo CM Misc Criminal Case No E016 of 2022 seeking release of the vehicle to the Applicant on the grounds that the vehicle was an exhibit and its release would prejudice the prosecution case.
3. Applicants seeks a review of that order. I have considered the evidence and submissions tendered before the court.
4. The powers of the High court in revision cases are contained in Section 362 through to 366 of the [Criminal Procedure Code](#) (cap 75) Laws of Kenya. Section 362 specifically provides as follows: -

' 362. The High Court may call for and examine the record of any criminal proceedings before any subordinate court for the purpose of satisfying itself



as to the correctness, legality or propriety of any finding, sentence or order recorded or passed, and as to the regularity of any proceedings of any such subordinate court'.

5. No material has been placed before the court to demonstrate any incorrectness, illegality or impropriety of the proceedings of the subordinate court. On the contrary, the trial magistrate's finding that the court could not order release of a vehicle that was not tendered as an exhibit and therefore not in its custody was well founded. I totally agree with the trial magistrate's finding that the release of the vehicle would leave the prosecution with a shell of a case incapable of being proved.
6. Consequently, I have come to the conclusion that the revision is unmerited and it is disallowed.

DATED AT MERU THIS 21ST DAY OF SEPTEMBER 2023

WAMAE. T. W. CHERERE

JUDGE

Appearances

Court Assistant - Mr. Kinoti

For Applicant - Mr. Ayieko for Laichena Mugambi & Ayieko Advocates LLP

For 1st & 2nd Respondents - Ms. Rita (PC-1)

For 3rd Respondent - N/A

