

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAKURU

MISC. CRIMINAL APPLICATION NO. 46 OF 2020.

REPUBLIC.....APPLICANT

VERSUS

JESISTER KERUBO MATUNDA.....RESPONDENT

JUDGEMENT.

1. This is an application dated **6th February 2020** by the applicant seeking under **Section 349 of the Criminal Procedure Code** to file an appeal out of time. The same is supported by the sworn affidavit of Daniel Karuri the senior assistant director of public prosecutions.
2. He alleges that the state was unable to file the appeal within time as they received the proceedings after the expiry of 14 days and that their efforts to have their matter reviewed was dismissed by this court. Consequently, they have been forced to file this application.
3. The respondent though acting in person has filed an objection which essentially is reiterating some of the issues she raised or would have raised in her defence. She urges the court to dismiss the application.
4. The issue is whether there would be any prejudice to be suffered by any of the parties should this application allowed. The reasons given by the applicant appears plausible and understandable. The respondent would only suffer the issue of time but would nevertheless have an opportunity to defend herself in the intended appeal.
5. This court for now is precluded from venturing into the merits or otherwise of the appeal as that is reserved for another day.
6. In the premises, the application is allowed, the applicant is granted 14 days from the date herein to file and serve its petition of appeal.

DATED SIGNED AND DELIVERED AT NAKURU VIA VIDEO LINK THIS 17TH DAY OF JUNE 2021.

H. K. CHEMITEI

JUDGE