

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

CRIMINAL APPEAL NO. 46 OF 2018

REPUBLIC.....APPLICANT

VERSUS

ABRAHAM BIRUNDU.....RESPONDENT

RULING

1. The Notice of Motion by the applicant dated **1st of March 2021** prays for orders that this appeal be suspended so as to allow the applicant introduce new evidence before the determination of the same. The fresh evidence as per the supporting affidavit of Odero Vena, the learned state counsel, is an affidavit of the complainant which is intended to shed more light on the matter.
2. According to her the same shall assist the court in determining the appeal appropriately and in any case the respondent shall have the chance to interrogate it. The application has not been opposed despite the counsel for the respondent asking for more time to put in his client's response.
3. The court ordered the parties to file written submissions which apparently the applicant alone complied. The court has perused the authority of **MOHAMED ABDI MOHAMED VS. AHMED ABDULLAHI MOHAMED & 3 OTHERS SC PETITION NO 7 OF 2018 (2018) eKLR** relied on by the applicant.
4. In view of the fact that the application is not opposed, and the fact that the respondent shall still have the chance to comment on the same, in any event, the application is hereby allowed as prayed. The applicant is granted 14 days to file supplementary record of appeal and serve the respondent and in default the appeal shall proceed appropriately.

DATE SIGNED AND DELIVERED VIA VIDEO LINK AT NAKURU THIS 8TH DAY OF JULY 2021

H K CHEMITEI

JUDGE