

THE REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT MOMBASA

CRIMINAL CASE NO. 24 OF 2018

REPUBLIC.....PROSECUTOR

VERSUS

1. EDDLIED MANDI JILANI

2. MAKONDE RUWA BUNI

3. NGAIRA KARISA CHARO

4. KATANA KARISA CHARO.....ACCUSED

RULING UNDER SECTION 137 (J) (2) OF THE CRIMINAL PROCEDURE CODE

1. Pursuant to the Ruling herein dated 28/11/2019, this court is required to give directions under Section 137 (J) 2 of Criminal Procedure Code as to whether this matter will proceed with trial in this court or whether it shall be transferred to another court. The court allowed the parties to submit on that issue. Mr. Kemo, learned counsel for the State, Mr. Magolo, learned counsel for the 1st accused, Mr. Wamotsa, learned counsel for the 2nd accused, and Mr. Salim, learned counsel for the victim family, all submitted in unison that Section 137 J (2) is couched in discretionary terms using the word “may”, and so, this court should be able to proceed with the trial. Counsel submitted that if the trial court was to be changed this would result into a lot of delay which would itself defeat justice.

2. I have considered the said submissions and the need for expediency in the trial. Substantial proceedings have taken place in this court. All those would go to waste if a fresh trial were ordered in another court.

3. I therefore order and direct that the trial of this matter will proceed in this court, and in accordance with the law.

4. I direct that the Deputy Registrar appoints a counsel for the 3rd Accused.

Dated, Signed and Delivered at Mombasa this 22nd day of January, 2020.

E. K. OGOLA

JUDGE

In the presence of:

Mr. Magolo for 1st Accused

Mw. Wamotsa for 2nd accused

Mr. Fedha holding brief Kemo for DPP

3rd Accused in person

Mr. Kaunda Court Assistant