



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT BUNGOMA

MISCELLANEOUS CRIMINAL APPLICATION NO. 73 OF 2019

TIMOTHY KIPTANUI KITAI ALIAS CHEBARAKACH.....1ST APPLICANT

CLEOPHAS NGEIWO KITAI ALIAS JETILEY..... 2ND APPLICANT

ALEX JUMA TABOI3RD APPLICANT

ROBIN JIKWICHA CHESEBE4TH APPLICANT

ARON KIMUTAI SICHAKA.....5TH APPLICANT

SAMWEL KIPSANG KIBOI.....6TH APPLICANT

VERSUS

REPUBLIC RESPONDENT

RULING

The applicants: -

1. Timothy Kiptanui Kital alias Chebarakach
2. Cleophas Ngeiywo Kitai alias Jetiley
3. Alex Juma Taboi
4. Robin Kikwicha Chesebe
5. Aron Kimutai Sichaka
6. Samwel Kipsang Kiboi

are facing several charges of Robbery with violence contrary to section 296(1) of the Penal Code. They have filed this application received in this Court on 25/10/2019 seeking orders to be supplied with copy of extract of Investigation Diary, Inventory list and copies of witness statements. They claimed that failure to supply the stated documents offends their rights under Article 25(C) 26(1)(2) 49(1) (f) i of the constitution.

The applicants filed written submissions in support of their application. They also submit that this Court order issued in CR 1314/2018 by Aburili J were not complied with. M/S Nyakibia for State in response opposed the application stating that the High Court has expressed itself in MISC. 59/2018 and that the request for transfer of and allocation of cases for hearing among magistrates is an administrative action of the Chief Magistrate as the accused have a total of 15 cases against them.

I have considered the application and submissions and the response. The High Court in Bungoma MISC. APPLICATION NO. 59/2018 granted orders under, for witness protection act, which orders included supply of witness statements which are redated, witnesses to testify in closed session use of pseudonyms, and orders of witness protection of witnesses.

There is nothing unconstitutional in the enforcement of the provisions of the Witness Protection Act, Act No. 16/2006.

This application is hereby dismissed with the directions that the matters do proceed for hearings within the Provisions of the Witness Protection Act.

Dated and delivered at Bungoma this 13th day of February, 2020.

S. N. Riechi.

J U D G E