

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT SIAYA

MISC. CRIMINAL APPLICATION NO. 20 OF 2020

KEVIN OUMA OLOO.....1ST APPLICANT

FREDRICK OTIENO ODINDO.....2ND APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

(An Application arising from Original Criminal Case No. 369/2017 at Principal Magistrate's court, Siaya before Hon. J. Ong'ondo, PM and Judgment delivered vide Criminal Appeal No. 36 of 2018 at Siaya High Court dated 13.11.2019 before Hon. Lady Justice R.E. Aburili - Judge)

RULING

1. I have considered the application by the applicants **Kevin Ouma Oloo** and **Fredrick Otieno Odindo** who are before Bondo PM's Court charged with the offence of Robbery with violence contrary to section 296(2) of the Penal Code. IN their application they aver that they are facing a retrial over the same offence that they were acquitted on in the previous trial. As the applicants claim that that they are charged with Count 1 for which they were initially acquitted of, I find that the said Plea of ***autrefois acquit*** can only be raised before the same court that is trying the applicants.

2. This application is therefore premature and misplaced. It is dismissed.

3. File closed.

4. Dated, signed and Delivered at Siaya, this 21st Day of July, 2020

R.E. ABURILI

JUDGE