



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT SIAYA**

**CRIMINAL REVISION 37 OF 2019**

**REPUBLIC.....PROSECUTOR**

**VERSUS**

**AGNES MAURINE VUYANZI .....ACCUSED**

*(From Original Bondo PM Criminal Case No. 730 of 2019 Before Hon E.N. Wasike - SRM)*

**RULING**

1. **Bondo SRM Cr. Case No. 730 of 2019** involves a Judicial Officer Hon. Stella Mathenge, Resident Magistrate who is the Complainant and as there are only two Judicial Officers in the Court Station, perception of bias cannot be ruled out. The Presiding Magistrate has therefore sought directions of this Court on that account.

2. I have perused the file and the concern by the trial Court and I am satisfied that this is an appropriate case to be considered for transfer to another Court of competent jurisdiction for hearing and final determination. **Section 81 of the Criminal Procedure Code** empowers this Court to change venue whenever it is made to appear to the High Court-

*(a) That a fair and impartial trial cannot be heard in any Criminal Court subordinate thereto; or*

*(b) .....*

*(c) .....*

*(d) .....*

*(e) That such an order is expedient for the ends of Justice or is required by any provision of this Code, the High Court may Order that the case be tried by a Court not empowered under the preceding Sections of this part but in other respects competent to try the offence.*

3. Under **Sub-Section 2 of the said Section 81, the High Court May act on the report of the Lower Court or on application of a party interested or on its own initiative.**

4. I have read the rulings by **Hon. E.N. Wasike – SRM Bondo** made on 11.10.2019 and 1/11/2019. **I hereby Order that Bondo SRM Criminal Case No. 730 of 2019** be and is hereby transferred to Siaya Principal Magistrate's Court and shall be heard and determined in the said Court as may be assigned to any of the three Judicial Officers by Hon. Ongondo, Head of Station.

5. Accordingly, the **Bondo SRM Cr. C. No. 730 of 2019** is hereby transferred to **Siaya P.M's Court** for hearing and final determination.

6. The Deputy Registrar to notify the Accused person and the Office of Director of Public Prosecutions, Siaya to appear before the Principal Magistrate's Court on any such date as may be convenient to both parties for directions and/or for pretrial.

7. Orders accordingly.

**Given under my Hand and Seal of this Court this 4<sup>th</sup> day of November 2019**

**R.E. ABURILI**

**JUDGE**