

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

MISC. CRIMINAL APPLICATION NO.209 OF 2018

MOHAMED KARANJA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

The court has perused the proceedings of the trial court. The Applicant applied for PW1 and PW2 to be recalled for further cross-examination when the court hearing the case took over the proceedings and read the Applicant his rights under **Section 200(3)** of the **Criminal Procedure Code**. It is apparent from the proceedings that the Applicant is intent on frustrating the conclusion of the trial by, without any legally justifiable reason, applying for the trial court to disqualify itself. This court sees no reason why the trial court should not continue with the hearing of the case yet it has acceded to the Applicant's request to have the two witnesses who had earlier testified to be recalled for further cross-examination. The proceedings clearly show that the Applicant's desires to choose the court that will hear his case. That cannot be. It cannot be allowed. An accused cannot choose the court that will hear his case. His case will be heard by the trial court until conclusion. The application for the disqualification of the trial court lacks merit and is hereby dismissed. The file shall be sent to the trial court where the same shall be mentioned on 25th July 2018 for the fixing of an appropriate hearing date. It is so ordered.

DATED AT NAIROBI THIS 18TH DAY OF JULY 2018

L. KIMARU

JUDGE