



**Njuki v ODPP (Miscellaneous Criminal Application E004 of 2025)
[2025] KEHC 13793 (KLR) (25 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 13793 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT GARSEN
MISCELLANEOUS CRIMINAL APPLICATION E004 OF 2025**

JN NJAGI, J

SEPTEMBER 25, 2025

BETWEEN

NURIUS MUIRURI NJUKI APPLICANT

AND

ODPP RESPONDENT

RULING

1. The Applicant herein vide a letter written to the trial magistrate Hon. R. C Mwachi (RM) sought for the magistrate to recuse himself in the case where he is facing a charge of defilement contrary to Section 8(1)(4) of the *Sexual Offences Act*. The applicant raised various grounds for recusal.
2. The application was opposed by the prosecution. The trial court heard the parties and delivered a ruling dated 27/11/2024 dismissing the application for recusal.
3. The Applicant then moved to this court vide an undated application in which he seeks for this court to order that his case be transferred to any other court of competent jurisdiction as he no longer has faith with the trial magistrate. That he feels oppressed by the manner the trial magistrate has conducted the case. That he sought for the case to start de novo but the magistrate declined his request. That the ruling of the trial magistrate for recusal was not well founded as an accused person under Section 200(3) of the Criminal Procedure Code has the right to have the case start de novo.
4. The application herein was opposed by the Respondent on the grounds that the trial court is yet to make a determination in the matter. That the aspersion that the court will not give fair judgment in the case is speculative.
5. I have considered the application. The Applicant made an application before the trial court for the trial magistrate to recuse himself in the case. The Magistrate considered the application and declined to grant the orders sought. He gave reasons for declining the application. Instead of the Applicant



appealing against the decision, he has filed a fresh application before this court seeking for transfer of the case from the trial court.

6. In my view is an abuse of the court process for the Applicant to seek the transfer of the case from the trial court instead of him filing an appeal against the ruling of the trial court.

7. There is then no merit in the instant application and the same is dismissed.

RULING DELIVERED, DATED AND SIGNED AT GARSEN THIS 25TH DAY OF SEPTEMBER 2025.

J. N. NJAGI

JUDGE

In the presence of:

Ms Mkongo for Respondent

Petitioner: Present

Court Assistant - Rahma

