

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**MILIMANI LAW COURTS**  
**JUDICIAL REVIEW DIVISION**  
**JUDICIAL REVIEW MISC. APPLICATION NO. E040 OF 2026**

**RACHAEL MUTHONI GACHAU..... APPLICANT**

**VERSUS**

**THE DIRECTORATE OF CRIMINAL INVESTIGATIONS.....1<sup>ST</sup> RESPONDENT**

**OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS.....2<sup>ND</sup> RESPONDENT**

**RULING**

1. I have perused the chamber summons dated 4<sup>th</sup> March, 2026 filed under certificate of urgency. I am satisfied that the application is urgent. I certify it as urgent.
2. On whether leave sought is merited, the applicant seeks to challenge the decision of the DCI and DPP to charge or prosecute her for the offence of uttering a false document contrary to **Section 353 of the Penal Code.**
3. The applicant alleges that the alleged document/an order of the court was served to her law firm by an unknown person, and that the DCI have refused to carry out comprehensive

investigations into the matter, examine CCTV footage on the unknown person who brought the order to the applicant's law firm and identify the person and that instead, they intend to charge the applicant with the offence after discovery that the order did not originate from court.

4. In my view, the application as intended is not frivolous or hopeless. It is arguable. An arguable case is not necessarily one that must succeed, but one which ought to be argued fully before the court.
5. Accordingly, I grant leave to the applicant to institute Judicial Review proceedings as sought in prayers 2 and 3 of the chamber summons dated 4/3/2026.
6. The substantive motion to be filed in a fresh substantive Judicial Review file as this is in a Miscellaneous matter. The main motion to be filed and served within 21 days of today.
7. On the prayer for stay, I find that the applicant's case, should it be successful, will be rendered nugatory unless stay is granted. I grant stay of arrest, charging and arraignment and prosecution of the applicant as sought in paragraph 4 of the chamber

summons dated 4/3/2026 until the main motion once filed, is heard and determined.

8. However, as investigations may be ongoing, the applicant and her associates and staff are directed to co-operate with the DCI in the investigations to establish who may be the person of interest in the alleged offence. This Court cannot, therefore, stay investigations into an alleged offence and filing into court that material, which the applicant claims the respondents have refused to obtain.

9. I make no orders as to costs.

10. This file is closed.

**Dated, Signed & Delivered virtually at Nairobi this 12<sup>th</sup> Day of March, 2026**

**R.E. ABURILI  
JUDGE**