



Case Number:	Miscellaneous Criminal Application 44 of 2019
Date Delivered:	26 Nov 2021
Case Class:	Criminal
Court:	High Court at Vihiga
Case Action:	Judgment
Judge:	William Musya Musyoka
Citation:	Republic v Dpp, Attorney General & another; Omar Osore (Interested Party) Ex Parte Christine Amachanji Sumba [2021] eKLR
Advocates:	-
Case Summary:	-
Court Division:	Criminal
History Magistrates:	-
County:	Vihiga
Docket Number:	-
History Docket Number:	-
Case Outcome:	Motion dismissed
History County:	-
Representation By Advocates:	-
Advocates For:	-
Advocates Against:	-
Sum Awarded:	-
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**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT VIHIGA**

**MISCELLANEOUS CRIMINAL APPLICATION NO. 44 OF 2019**

**REPUBLIC**

.....**APPLICANT**

**VERSUS**

**THE DPP.....1<sup>ST</sup>**  
**RESPONDENT**

**THE ATTORNET GENERAL.....2<sup>ND</sup> RESPONDENT**

**PRINCIPAL MAGISTRATE MUMIAS COURT.....3<sup>RD</sup> RESPONDENT**

**OMAR OSORE.....INTERESTED PARTY**

***EX PARTE: CHRISTINE AMACHANJI SUMBA***

**JUDGMENT**

1. The *ex parte* applicant herein has moved the court for Judicial Review orders with relation to criminal proceedings that she claims have been brought against her by the 1<sup>st</sup> respondent before the 3<sup>rd</sup> respondent.
2. The first prayer in the substantive Motion is for the quashing of the criminal charges in Mumias PMCCRC No. 1421 of 2018. The *ex parte* applicant has not attached to her affidavit in support a copy of the charge sheet, which carries the charges or the decision of the 1<sup>st</sup> respondent that she is asking the court to quash. The court does not act blindly. It has to see evidence that those charges do in fact exist. It is not enough to recite them in the affidavit in support. The actual document drawn by the 1<sup>st</sup> respondent which bears those charges ought to be exhibited. As it is there is no evidence that those charges exist.
3. Secondly, the said charges are alleged to have been laid before the 3<sup>rd</sup> respondent in Mumias PMCCRC No. 1421 of 2018, and it is in that context that the 3<sup>rd</sup> respondent has been named as a party to these proceedings. Yet no document has been laid before this court as evidence that such a suit exists before the 3<sup>rd</sup> respondent, where the *ex parte* applicant is the accused person.
4. The basis of these Judicial Review proceedings ought to be the charges in Mumias PMCCRC No. 1421 of 2018, and the charges themselves ought to have been placed on record. With that the averments in the affidavit that the *ex parte* applicant made in her affidavit in support amount to mere allegations.
5. This court is not sufficiently moved, in the circumstances, to make the orders sought. I shall accordingly dismiss the Motion dated 23<sup>rd</sup> July 2019. The stay orders made on 2<sup>nd</sup> July 2019 are hereby discharged. It is so ordered.

**DATED, SIGNED AND DELIVERED IN OPEN COURT AT KAKAMEGA THIS 26TH DAY OF NOVEMBER 2021**

**W. MUSYOKA**

**JUDGE**



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