



**IN THE HIGH COURT OF MALAWI  
LILONGWE DISTRICT REGISTRY  
CRIMINAL DIVISION  
CRIMINAL CASE NO: 02 OF 2021**

**BETWEEN:**

**THE REPUBLIC**

**-AND-**

**MAHAMED SHAFEE AHMED CHUNARA.....1<sup>ST</sup> ACCUSED PERSON  
NORMAN PAULOSI CHISALE..... 2<sup>ND</sup> ACCUSED PERSON  
PETER MUKHITHO.....3<sup>RD</sup> ACCUSED PERSON  
ROZA MADALO MBILIZI.....4<sup>TH</sup> ACCUSED PERSON  
AHMED MOHAMMED CHUNARA.....5<sup>TH</sup> ACCUSED PERSON**

**CORAM : HON. JUSTICE R.E. KAPINDU**

***Counsel for the State:*** Dr. S. Kayuni, Director of Public Prosecutions (DPP)

Dr. J. Priminta, Director General, Financial  
Intelligence Authority

Mr. D. Malunda, from the DPP's Chambers

Mr. P. Masanjala, from the DPP's Chambers

Ms. F. Francisco, Malawi Revenue Authority

Ms. S. Kajumie, from the DPP's Chambers

**Counsel for the 4<sup>th</sup> Accused:** Mr. J. Masumbu,

**Counsel for the 1<sup>st</sup> and 5<sup>th</sup> Accused:** Mr. M. Theu, Mr. G. Khonyongwa

**Counsel for the 2<sup>nd</sup> Accused:** Mr. F. Maele,

**Counsel for the 3<sup>rd</sup> Accused:** Mr. S. Mhango, Ms. Chijere

**Court Reporter:** Mrs. T. Kalumbi

**Court Clerk/Official Interpreter:** Mr. C. Saukila

## **RULING**

KAPINDU, J

[1] This matter was set down to this day for Plea and Directions hearing pursuant to the provisions of section 303 of the Criminal Procedure and Evidence Code (Cap. 8:01 of the Laws of Malawi) (CP &EC). There were also several objections raised in respect of the charges in the present matter, which charges were read out to the accused persons during the last sitting of the Court on 20<sup>th</sup> June 2022.

[2] In addition, as it shall become apparent in the present decision, the Court raised with the parties, as a preliminary issue for its determination, the question of which Division of the High Court is the proper one for the trial and determination of the present matter. This is the Court's decision disposing of the issue of forum.

[3] I must quickly mention at this juncture, that five persons, three Malaŵians and two British citizens, are facing various charges that the State is preferring against them in the present matter. The five accused persons are:

(a) Mr. Mahmed Shafee Ahmed Chunara, 1<sup>st</sup> accused person, a British citizen;

(b) Mr. Norman Paulosi Chisale, 2<sup>nd</sup> accused person, a Malaŵian;

- (c) Mr. Peter Mukhitho, 3<sup>rd</sup> accused person, a Malaŵian;
- (d) Ms. Roza Madalo Mbilizi, 4<sup>th</sup> accused person, a Malaŵian; and
- (e) Mr. Ahmed Mohammed Chunara, 5<sup>th</sup> accused person, a British citizen.

[4] Since the commencement of these proceedings before this Court, the Court has seen at least three substantially different versions of the Charge Sheet against the accused persons. On the first two versions, the Charge Sheet had six (6) counts. These related to the first four accused persons as the 5<sup>th</sup> accused person had not yet been added to the proceedings. In the latest version of the Charge Sheet however, the number of counts sharply rose to eighteen (18) in total.

[5] As pointed out above, the Court read out these 18 counts to the accused persons herein on 20<sup>th</sup> June, 2022, the Court reading to each accused person those parts of the Charge Sheet that related to him or her. The charges that are being preferred by the State against the accused persons herein, and which charges were read out to the accused persons, are the following:

(1) **Count 1** - *Fraud other than false pretences contrary to section 319A(d) of the Penal Code.*

**Particulars** - *Mahmed Shafee Ahmed Chunara, Ahmed Mohammed Chunara, Norman Paulosi Chisale, Peter Mukhitho and Roza Mbilizi between November 2018 and June 2020, in the cities of Lilongwe and Blantyre, by deceit, namely, that the former Head of State, Professor Arthur Peter Mutharika, had imported 1,250,770 bags of cement, duty free, caused a pecuniary detriment to the Malaŵi Government thereby defrauding the Malaŵi Government of revenue amounting to MK3,269,304,892,86*

(2) **Count 2** - Conspiracy to commit customs offences, contrary to section 132(j) as read with section 142(1)(a) of the Customs and Excise Act (Cap 42:01) of the Laws of Malaŵi.

**Particulars** - Mahmed Shafee Ahmed Chunara, Ahmed Mohammed Chunara, Norman Paulosi Chisale and Peter Mukhitho, in the Cities of Blantyre and Lilongwe, between November 2018 and June 2020, conspired together with Roza Mbilizi to evade payment of customs duties by importing 1,250,770 bags of cement disguised as duty free for the use of the former Head of State, Professor Arthur Peter Mutharika, thereby defrauding the Malaŵi Government of revenue amounting to MK1,896,766,536.12.

(3) **Count 3** - Smuggling contrary to section 134 (a) as read with sections 2 and 142(1)a) of the Customs and Excise Act (Cap 42:01) of the Laws of Malaŵi .

**Particulars** - Mahmed Shaffee Chunara and Ahmed Mohammed Chunara Trading as SC Investments, Prestige Imports, and Melton Hardware, between November 2018 and June 2020, in the Cities of Lilongwe and Blantyre imported into Malaŵi 1,250,770 bags of cement without payment of custom duty purporting the same to be duty free goods for the use of the President of the Republic of Malaŵi , thereby defrauding the Government of Malaŵi of One billion, Eight Hundred and Ninety Six Million, Seven Hundred and Sixty Six Thousand, Five Hundred and Thirty Six Kwacha, Twelve Tambala, (MK1,896,766,536.12) in customs duty.

(4) **Count 4** - Aiding and abetting smuggling contrary to section 133(c) as read with section 142(1)(a) of the Customs and Excise Act.

**Particulars** - Norman Paulosi Chisale, Peter Mukhitho and Roza Madalo Mbilizi between November 2018 and June 2020 in the Cities of Lilongwe and Blantyre aided and abetted Mahmed Shafee Chunara and Ahmed Mohamed Chunara to import 1,250,770 bags of cement without payment of customs duty purporting the same to be duty free goods for the personal use of the President of the Republic of Malaŵi , thereby defrauding the Government of Malaŵi of One billion, Eight Hundred and Ninety Six Million, Seven Hundred and Sixty Six Thousand, Five Hundred and Thirty Six Kwacha, Twelve Tambala (MK1,896,766,536.12) in customs duty.

(5) **Count 5** – Uttering a false document contrary to section 360 as read with section 356 of the Penal Code, (Cap 7:01) of the Laws of Malaŵi .

**Particulars** – Mahmed Shaffee Chunara and Mohammed Ahmed Chunara [Trading as] SC Investments, Prestige Imports, and Melton Hardware between November 2018 and June 2020 in the City of Lilongwe, with intent to defraud the Government of Malaŵi , uttered to Mr Tom Malata, the Commissioner General of the Malaŵi Revenue Authority at the time, falsified documents; namely falsified Value Added Tax (VAT) Returns, in order to facilitate the under-declaration of VAT liability with the Malaŵi Revenue Authority, thereby defrauding the Malaŵi Government of revenue amounting to One Billion, Two Hundred and Seventy-five Million, Two Hundred and Forty Four Thousand, Eight Hundred and Sixty Four Kwacha, Eighty Nine Tambala (MK1,275,244,864.89) and interest thereon.

(6) **Count 6** - Uttering a false document contrary to section 360 of the Penal Code

**Particulars** - Norman Paulosi Chisale and Peter Mukhitho with intent to defraud the Government of Malaŵi , uttered to Tom Malata, the Commissioner General for the Malaŵi Revenue Authority at the time, for customs purposes, falsified documents; namely a letter dated 21<sup>st</sup> November, 2018 in order to facilitate the smuggling of 20,000 metric tonnes of cement by falsely declaring that the same belonged to the former President Professor Arthur Peter Mutharika in order to enjoy a duty free status on importations by the President.

(7) **Count 7** - Uttering a false document contrary to section 360 as read with section 356 of the Penal Code

**Particulars** - Norman Paulosi Chisale and Peter Mukhitho with intent to defraud the Government of Malaŵi , uttered to Tom Malata, the Commissioner General of the Malaŵi Revenue Authority at the time, for customs purposes, falsified documents; namely a letter dated 28<sup>th</sup> June 2019 in order to facilitate the smuggling of 400,000 bags of cement by falsely declaring that the same belonged to the Former President Professor Arthur Peter Mutharika in order to enjoy a duty free status on importations by the President.

(8) **Count 8** - Uttering a false document contrary to section 360 as read with section 356 of the Penal Code

**Particulars** - Norman Paulosi Chisale and Peter Mukhitho with intent to defraud the Government of Malaŵi , uttered to Tom Malata, the Commissioner General of the Malaŵi Revenue Authority at the time, for customs purposes, falsified documents; namely a letter dated 13<sup>th</sup> December, 2019 in order to facilitate the smuggling of 20,000 bags of cement, by falsely declaring that the same belonged to the former

*President Professor Arthur Peter Mutharika in order to enjoy a duty free status on importations by the President.*

(9) **Count 9** - *Making a false document contrary to section 353(a) of the Penal Code*

**Particulars** - *Norman Paulosi Chisale and Peter Mukhitho with intent to defraud the Government of Malaŵi fraudulently wrote a document [to] Mr Tom Malata, the Commissioner General of the Malaŵi Revenue Authority at the time, for customs purposes, namely a letter dated 21<sup>st</sup> November, 2018 in order to facilitate the smuggling of 20,000 metric tonnes of cement purporting that the said letter was written under the instruction of Former President Professor Arthur Peter Mutharika in order to enjoy a duty free status on importations by the President.*

(10) **Count 10** - *Making a false document contrary to section 353(a) of the Penal Code*

**Particulars** - *Norman Paulosi Chisale and Peter Mukhitho with intent to defraud the Government of Malaŵi fraudulently wrote a document to the Malaŵi Revenue Authority for customs purposes, namely a letter dated 28<sup>th</sup> June 2019 in order to facilitate the smuggling of 400,000 bags of cement purporting that the said letter was written under the instruction of Former President Professor Arthur Peter Mutharika in order to enjoy a duty-free status on importations by the President.*

(11) **Count 11** - *Making a false document contrary to section 353(a) of the Penal Code*

**Particulars** - Norman Paulosi Chisale and Peter Mukhitho with intent to defraud the Government of Malaŵi fraudulently wrote a document to the Malaŵi Revenue Authority for customs purposes, namely a letter dated 13<sup>th</sup> December 2019 in order to facilitate the smuggling of 20,000 bags of cement purporting that the said letter was written under the instruction of Former President Professor Arthur Peter Mutharika in order to enjoy a duty-free status on importations by the President.

(12) **Count 12**- Fraudulent evasion of Value Added Tax payment contrary to section 49(1) of the Value Added Tax Act (Cap 42:02) of the Laws of Malaŵi .

**Particulars** – Mahmed Shaffee Chunara and Mohammed Ahmed Chunara Trading as SC Investments, Prestige Imports, and Melton Hardware, between November 2018 and June 2020 at Lilongwe, knowingly took steps with a view to fraudulently evade payment of Value Added Tax by under declaring sales and by not remitting Value Added Tax to the Malaŵi Revenue Authority, thereby defrauding the Malaŵi Government of revenue amounting to One Billion, Two Hundred and Seventy-five Million, Two Hundred and Forty Four Thousand, Eight Hundred and Sixty Four Kwacha, Eighty Nine Tambala (MK1,275,244,864.89).

(13) **Count 13** - Omitting from a return of income in respect of a year of assessment, amounts which should have been included contrary to sections 84 and 105 as read with 112(3) and (4) (d)(in) of the Taxation Act (Cap 41:01) of the Laws of Malaŵi .

**Particulars** - Mahmed Shaffee Chunara Trading as SC Investments, Prestige Imports, and Melton Hardware between November 2018 and



*June 2020 in the City of Lilongwe, with intent to defraud the Malaŵi Government, omitted from inclusion returns of income for the tax assessment years 2018, 2019 and 2020 a total amount of MWK 308,200,175.44, thereby defrauding the Malaŵi Government of a total amount of MK97,293,491.85 in corporate tax, and interest thereon.*

- (14) **Count 14** - *Omitting from a return of income in respect of a year of assessment amounts which should have been included contrary to sections 84 and 105 as read with 112(3) and (4) (d)(in) of the Taxation Act (Cap 41:01 of the Laws of Malaŵi).*

**Particulars** - *Mohammed Ahmed Chunara Trading as SC Investments, Prestige Imports, and Melton Hardware between November 2018 and June 2020 in the City of Lilongwe, with intent to defraud the Malaŵi Government, omitted from inclusion returns of income for the tax assessment years 2018, 2019 and 2020 a total amount of MWK 16,111,464.07, thereby defrauding the Malaŵi Government of a total amount of MWK 4,833,439.22 in corporate tax, and interest thereon.*

- (15) **Count 15** - *Omitting from a return of income in respect of a year of assessment amounts which should have been included contrary to sections 84 and 105 as read with 112(3) and (4) (d) (in) of the Taxation Act (Cap 41:01 of the Laws of Malaŵi )*

**Particulars** – *Mahmed Shaffee Chunara Trading as SC Investments, Prestige Imports, and Melton Hardware in the City of Lilongwe, with intent to defraud the Malaŵi Government, omitted from inclusion, returns of income for sales of lime and diapers for the tax assessment years 2016, 2017, 2018, 2019 and 2020 a total amount of MK7,433,379,915.62 thereby defrauding the Malaŵi Government of a total amount of MK280,453,926.45 in corporate tax, and interest thereon.*

(16) **Count 16** - Money Laundering Contrary to Section 42 (1) (c) of the Financial Crimes Act.

**Particulars** – Mahmed Shafee Ahmed Chunara and Ahmed Mohammed Chunara, between November 2018 and June 2020, in the city of Lilongwe, having reasonable grounds to believe that money amounting to Three Billion, Two Hundred and Sixty Nine Million, Three Hundred and Four Thousand, Eight Hundred and Ninety Two Kwacha Eighty Six Tambala (MK3,269,304,892.86) in whole, directly represented proceeds of crime; namely, unremitted Customs Duties, Income Tax and VAT, acquired and used the said (MK3,269,304,892.86).

(17) **Count 17**- Money laundering contrary to sections 42(1)(d) of the Financial Crimes Act

**Particulars** - Peter Mukhitho and Roza Madalo Mbilizi, between November 2018 and June 2020 in the cities of Lilongwe and Blantyre, having a reasonable belief that MK3,269,304,892.86 wholly and indirectly represented proceeds of crime, namely tax evasion from unremitted customs duties, income tax and VAT, aided and abetted Mahmed Shafee Chunara and Ahmed Mohammed Chunara in the acquisition of the said proceeds of tax evasion.

(18) **Count 18** - Abuse of Office contrary to section 95(1) as read with section 95(2) of the Penal Code

**Particulars** - Norman Paulosi Chisale, Peter Mukhitho and Roza Madalo Mbilizi between November, 2018 and June 2020 in the cities of Blantyre and Lilongwe in the Republic of Malaŵi , being people employed in the

*public service at the State Residences as Director of Security Services and Director General of State Residences , and at the Malaŵi Revenue Authority as Deputy Commissioner General, respectively, in abuse of the authority of their offices, did an arbitrary act, namely facilitating the duty free importation of 1,250,770 bags of cement by Mahmed Shaffee Chunara and Ahmed Mohamed Chunara which act was prejudicial to the rights of the Malaŵi Government.*

[6] Once the Court read out these charges, Counsel for some of the accused persons, namely the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> accused persons, indicated that they had objections to the charges. Counsel for the 1<sup>st</sup> and 5<sup>th</sup> accused persons indicated that although they had not indicated an intention to object to any of the charges on the Charge sheet, they would be filing an application that related to the character of the proceedings themselves. It was mutually agreed by all parties, and endorsed by the Court, that the said objections would be submitted to the Court in writing and that the Court was not going to hear oral argument before making its decision. The objections were duly filed by the parties as directed by the Court. I should also observe that the 1<sup>st</sup> and 5<sup>th</sup> accused persons did not bring the application that they had earlier indicated.

[7] In the meantime, the Court also carefully examined the most recent version of the Charge Sheet, seriously exercising its mind on the question of whether the Criminal Division of the High Court was the appropriate forum to try and determine the present matter. On the face of the various counts under the Charge Sheet, the Court was of opinion that the Revenue Division of the High Court would be the most appropriate forum.

[8] However, in view of the adversarial nature of the criminal justice system in Malaŵi, and indeed observing that Defence Counsel had already indicated their intention to raise some objections as regards the charges and the proceedings in the Court, the Court decided to wait for the written arguments

from the parties hoping that the issue of forum would perhaps be raised by any of the parties herein. However, having received the written arguments from both the Defence and the State, the Court noted that none of the parties had raised the issue of the appropriate forum.

[9] In this regard, on 12<sup>th</sup> July, 2022, the Court issued a Notice inviting all parties to these proceedings to make written arguments as regards the question of the appropriate forum to try and determine this matter, in view of the provisions of section 6A of the Courts Act (Cap 3:02 of the Laws of Malaŵi ).

[10] Section 6A of the Courts Act provides as follows:

*“(1) The High Court shall have the following divisions—*

*(a) the Civil Division which shall hear civil matters not provided for under another Division of the High Court;*

*(b) the Commercial Division which shall hear any commercial matter;*

*(c) the Criminal Division which shall hear any criminal matter;*

*(d) the Family and Probate Division which shall hear any family and probate matter; and*

*(e) the Revenue Division which shall hear any revenue matter.*

*(2) Where a person commences a matter or makes an application in a division other than the appropriate division in accordance with this section, the Registrar shall, on his own volition or on application, immediately transfer the matter to the appropriate division.*

*(3) The Courts may order that any costs arising from the process under subsection (2) shall be borne by the party who commenced the matter in an inappropriate division.”*

[11] Under Section 2 of the Courts Act, “*criminal matter*” is defined as “*a matter requiring a person to answer for an offence under any written law other than revenue law.*” “*Revenue matter*” on the other hand is defined as a civil or criminal matter which concerns taxes, duties, fees, levies, fines or other monies imposed by or collected under the written laws set out under the Malaŵi Revenue Authority Act.

[12] Under the Schedule to the Malaŵi Revenue Authority Act (Cap 39:07 of the Laws of Malaŵi ) on “*Written Laws Relating to Revenue*”, the following are listed as the revenue laws relating to revenue:

“1. *Customs and Excise Act*

2. *Taxation Act*

3. *Value Added Tax Act*

4. *Technical, Entrepreneurial and Vocational Education and Training Act*

5. *Roads Fund Administration Act.*”

[13] An analysis of the totality of the charges herein clearly demonstrates that even though some of the charges are stated to fall under the Penal Code and the Financial Crimes Act, which definitionally are not revenue pieces of legislation, the underlying allegation behind all the charges is that the conduct of the accused persons herein resulted in loss of revenue by the Malaŵi Revenue Authority, contrary to the requirements under various revenue laws.

[14] I must emphasise that the Court has taken a painstaking effort to look at the issue of the appropriate forum from various vantage points. All these however converge into one inescapable conclusion, which is that the most appropriate forum to try and determine this matter is the High Court of Malaŵi, Revenue Division.

[15] As I have mentioned earlier, upon the Court's direction, the parties herein were invited to make, and they made written representations on the issue of appropriate forum. The Court has had occasion to examine these representations in their entirety. Unsurprisingly, all the parties, without exception, similarly take the view that the appropriate Court to hear and determine this matter is the High Court, Revenue Division and not the High Court, Criminal Division. I must thank Counsel for all the parties for their objectivity, sincerity, and straight-dealing as officers of the Court. They have not needlessly raised any contentions to the contrary on this matter. Clearly, this has made the task of this Court in determining this issue much easier.

[16] There is, however, an aspect of the issue at hand which was not substantially dealt with by the parties. This is on the legal implications of commencing proceedings in a wrong Division of the High Court. Recently, in the case of *In The Matter of A Request by the Government of the Republic of South Africa to the Government of the Republic of Malawi for the Extradition of Mr Shepherd Bushiri and Mrs Mary Bushiri*, Criminal Review Case No. 11 of 2021 (HC, LL), this Court had occasion to consider this issue. At paragraphs 85 – 88, the Court stated as follows:

*“I must also quickly say something about the consequences of commencing a matter in a wrong division of the High Court, in view of the Supreme Court's decision in [**Hetherwick Mbale vs Hissan Maganga**, MSCA Civil Cause No. 21 of 2013 (the **Mbale case**)]. The **Mbale case** decided that where proceedings had been commenced in the Commercial Division of the High Court instead of the General Division of the High Court which was the correct forum for purposes of the subject matter in issue, the proceedings in the Commercial Division*

were null and void by reason of having been commenced in the wrong Division. Mbendera JA, delivering the decision of the Supreme Court of Appeal, was emphatic in this regard. The decision was clearly correct in the state of the law at the time, and it was made after a comprehensive analysis and review of all the major earlier Supreme Court of Appeal decisions impacting on the issue that fell for the Court's determination. What is noteworthy, however, is that since that decision was handed down in 2015, Parliament has changed some provisions of the Courts Act relating to divisions of the High Court. As stated earlier, in 2016, the Courts Act was amended and a new section 6A was introduced. Section 6A (1) has already been reproduced above. What is significant to note is that the section proceeds to prescribe what should happen when proceedings are commenced in a wrong Division of the High Court, and also spells out the consequences for commencing a matter in a wrong Division. It states in subsections (2) & (3) that: **“(2) Where a person commences a matter or makes an application in a division other than the appropriate division in accordance with this section, the Registrar shall, on his own volition or on application, immediately transfer the matter to the appropriate division. (3) The Courts may order that any costs arising from the process under subsection (2) shall be borne by the party who commenced the matter in an inappropriate division.”** It appears from these two subsections, that the scheme of the Courts Act now is that proceedings that are commenced in the wrong Division must be transferred to the appropriate Division. It seems to me that the position therefore is no longer that a proceeding commenced in a wrong Division, say a proceeding commenced

*in the Civil Division which should appropriately have been commenced in the Commercial Division, should ipso facto be void ab initio. This is so in view of the fact that the decision in the **Mbale case** on this point, and in as far as proceedings in the High Court are concerned, was overtaken by the abovesaid legislative changes in 2016. The new scheme of the law is that proceedings commenced in the wrong Division ought to be transferred to the right Division either on the Registrar's own motion or upon an application being made to the Court by any of the parties. The issue of transfer of the proceedings would not arise if the proceedings were to be declared void by reason of having been commenced in the wrong forum as was the case pre-2016. This is a point that should therefore be borne in mind when the issue of a matter being litigated in a wrong division of the High Court arises."*

[17] The Court is mindful that section 6A(2) of the Court's Act confers powers on the Registrar of the Court to, on his or her own volition or on application, immediately transfer a matter which is commenced in a wrong division of the High Court to the appropriate division. Although the provision does not refer to a Judge, it axiomatically follows that where the Court's Registrar omits or fails to sieve out a matter which is being commenced in an inappropriate division, the Judge seized of the matter has inherent power to exercise those powers. In *Manyozo vs Mchawa* [1993] 16(1) MLR 288 (HC) it was held, at pages 289 – 290, citing with approval *Baker vs. Oakes* (1877) 2 Q.B.D. 171 and *Re Davison etc. Co.* (1894) 2 Q.B.D. 332, that the words "*the Court*" or "*the High Court*" in an Act of Parliament mean the Court sitting in banc, that is, a Judge or Judges in open court. Thus, notwithstanding the specific authority that the law confers on a Registrar of the Court, a Judge of the High Court, who is the embodiment of the High Court itself, has inherent authority



to handle any judicial business in the High Court and all business arising there out. It is therefore proper for me, as presiding Judge on a matter that went through the cracks of the Registrar's sieving on appropriate forum, to exercise such residuary jurisdiction and make a necessary order.

[18] The Court, having concluded that it is not the right forum to try and determine this matter, will consequently not make any determination on the objections that some of the accused persons herein have raised in relation to the Charge Sheet herein.

[19] In similar vein, I should also mention that as the Court was considering the present matter, the 1<sup>st</sup> accused person, Mr. Mahmed Shafee Ahmed Chunara, filed an application for temporary release of his Passport. He is, in this regard, applying to be allowed by the Court to take some time off from this case to which case he says he has been "*very committed*", "*engaged*" and, he adds, "*nothing but fully involved*" ever since the present proceedings were commenced against him. He states that he wishes to take some time off the case in order to travel to his home country, the United Kingdom of Great Britain and Northern Ireland, so that he may have some time with members of his immediate family. He says he wishes to do this before trial begins in earnest.

[20] Again, in view of this Court's finding that it is not the appropriate forum to deal with the present proceedings, and indeed considering the nature of this application, I find it prudent that the Court's decision on this application be made by the Judge in the Revenue Division of the High Court who will be seized of this matter.

[21] All in all, I hereby make an Order transferring the present proceedings to the High Court of Malaŵi, Revenue Division. I have addressed my mind to the

provisions of section 6A(3) of the Court's Act and I have decided to make no order as to costs.

[22] The Judge -in -Charge of the High Court, Revenue Division, will therefore assign the matter either to himself or to another Judge in the Division who will proceed with making a determination on the objections to the charges herein, the 1<sup>st</sup> accused person's application for variation of bail conditions, deal with any other matters related to the plea and directions procedure under section 303 of the CP & EC and subsequently trial and final determination of the matter.

[23] I so Order.

Delivered in Open Court at Lilongwe this 25<sup>th</sup> Day of July, 2022

R.E. KAPINDU

**JUDGE**