

SUMMARY:

State counsel brought an application for the recusal of the presiding officer. The application was based on 'irregularity' as the presiding officer questioned the accused under oath during a section 112 enquiry.

Held, a recusal application which is based on 'irregularity' is unknown in our law.

Held further, there is nothing that precludes a court from requiring an accused to answer questions under oath as there is nothing that prohibits neither, regrettably, is there anything which requires it.

Seemle: It may well be advisable – due to the significance of the possible answers- to adopt this as practice.