



REPUBLIC OF KENYA



**Cherono & another v ODPP (Criminal Review E060 of 2022)
[2022] KEHC 14262 (KLR) (24 October 2022) (Ruling)**

Neutral citation: [2022] KEHC 14262 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NYAHURURU
CRIMINAL REVIEW E060 OF 2022
CM KARIUKI, J
OCTOBER 24, 2022**

BETWEEN

ALICE CHERONO 1ST APPLICANT

LUCY CHERONO 2ND APPLICANT

AND

ODPP RESPONDENT

RULING

1. The Accused persons were charged with an offence of Stealing Farm Produce Contrary to Section 8 (1) of the [Stock Farm produce Act](#). Cap 325 Laws of Kenya.
2. Particulars are that on 21st September at the Lorian area in Laikipia West Sub County within Laikipia County, stole nine cobs of green maize valued at kshs 200/were- the property of Samoe.
3. They pleaded guilty and were fined Kshs 10,000/= each or serve six months of imprisonment in default of payment.
4. Thus, in a letter via their Advocate Sigilai & Co advocate dated 13th October 2020, they are urging the court to call CMCRC No E1443 of 2022 for revision. I called for the trial court file and confirmed that the two accused persons were charged under Section 8 (1) of the [Stock Farm Produce Act](#) Cap 325 Laws of Kenya of the offence of Stealing Farm Produce worth Kshs 200. They pleaded guilty and were fined Kshs 10,000/= each or served six months of imprisonment
5. Unfortunately, Chapter 325 of the Laws of Kenya is the suppression of the Weeds Act. However, section 8 of the said Act deals with how inspection orders to eradicate noxious weed may be served, as Cap 355 Section 8 of the same Act talks of illegal possession of produce.
6. Both the prosecution and police went off the tangent in charging accused persons via the wrong law provisions of the law. No effort was made to correct the error.



7. Then the facts of the offence were not read but stated as per the charge sheet.
8. The Accused persons have already served a month or so due to the illegal proceedings, which violated Articles 25 and 50 of the Constitution of Kenya.
9. Thus, the court finds that there was a mistrial and the entire proceedings are annality and void ab initio.
10. The accused persons be and are hereby released forthwith unless otherwise lawfully held.

DATED, SIGNED, AND DELIVERED AT NYAHURURU THIS 24TH DAY OF OCTOBER, 2022.

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CHARLES KARIUKI

JUDGE

