



REPUBLIC OF KENYA



**Kevin & 4 others v Directorate of Criminal Investigations (Criminal Petition
E002 of 2025) [2025] KEHC 1843 (KLR) (24 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1843 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL PETITION E002 OF 2025
DR KAVEDZA, J
FEBRUARY 24, 2025**

BETWEEN

**OICHOE HANS KEVIN 1ST PETITIONER
ZAHRA SALIM DARVESH 2ND PETITIONER
IMRAN HUSSEINALI SHERALI 3RD PETITIONER
FATMABHAI SHERALI ESMAIL 4TH PETITIONER
FARHAN SALIM DARVESH 5TH PETITIONER**

AND

DIRECTORATE OF CRIMINAL INVESTIGATIONS RESPONDENT

RULING

1. The 1st applicant/petitioner Oichoe Hans Kevin, has filed a Notice of Motion dated 21st February 2025, seeking protection against the respondents, the Director of Criminal Investigations. The motion is supported by the applicant's affidavit of the same date.
2. The applicant seeks an ex parte order for the immediate and unconditional release of the petitioner from custody, a conservatory order restraining the respondent from summoning, arresting, charging, or otherwise intimidating the 1st petitioner in connection with his legal work as an advocate of the High Court of Kenya and the filing of suits by the 2nd to 5th petitioners. The applicant further seeks an order compelling the respondent to disclose the nature of the complaint lodged against the petitioner, as well as the identity of the complainant.
3. The grounds of the application are, inter alia: The 1st petitioner is an advocate of the High Court of Kenya, registration number LSK/15692/19. There is a pending dispute before the Mombasa Environment and Land Court in Mombasa ELC No E008/2024, Zahra Salim Darvesh v Nashir Aminohamed Nathoo & 2 others, with a ruling due on 3rd April 2025 before Justice Angima. The



applicant claims that the respondent has allegedly fabricated a criminal complaint related to this matter, accusing the petitioners of making false statements in a replying affidavit sworn by the 2nd petitioner on 30th April 2024. Pursuant to the complainant, the 1st petitioner was summoned by phone by Charles Odhiambo from the respondent's operation support unit, arrested, and charged with an offence under Section 23 of the Computer Misuse and Cybercrime Act.

4. The application is brought under Articles 2, 3, 10, 19, 20, 21, 23, 27, 47, 50, 157, 159, 165, 258, and 259 of the Constitution of Kenya. The applicant contends that the respondent's actions are a violation of his rights and fundamental freedoms, amounting to intimidation and abuse of the criminal justice system. The applicant further asserts that the harassment is intended to pressure the 1st petitioner, who was merely performing his professional duties.
5. At this juncture, the duty of this court is not to interrogate whether the applicants' averments are true, but rather to protect his constitutional rights and fundamental freedoms guaranteed to all persons.
6. I have carefully gone through the notice of motion application and the supporting affidavit. It is clear that the applicant has withheld vital information from this court, for instance, the applicant has not disclosed the police station that is investigating the case or the police station where the applicant has been detained. I say this case because there is a dispute pending between the applicant at Mombasa ELC No E008/2024, that seems to have given rise to the dispute herein.
7. It was imperative for the applicant to disclose the police station conducting investigations as this would have enabled this court to establish whether the dispute falls within its territorial jurisdiction. In view of the non-disclosure, I would be hesitant, to grant ex-parte orders against the against the Director of Criminal Investigations at this juncture. Kibera High Court handles disputes arising from designated police stations. I cannot for instance issue a conservatory order in a dispute that arose in Mombasa as this would usurp the jurisdiction of other courts.
8. It is for these reasons that I decline to grant orders sought and direct as follows:
 - a. The application is certified urgent
 - b. The applicants/petitioners are directed to serve the respondent with the application and order of this court before the close of business day today.
 - c. Upon service, the respondent shall file a response within 7 days from the date hereof.
 - d. The applicants/petitioners are at liberty to file a further affidavit if need be.
 - e. The matter shall be mentioned on 4th March 2025 for directions.

RULING DELIVERED VIRTUALLY IN ABSENCE OF PARTIES THIS 24TH DAY OF FEBRUARY 2025

D. KAVEDZA
JUDGE

