



**Morareni & another v Republic (Revision Case E109 of 2024)  
[2025] KEHC 1100 (KLR) (3 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1100 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT KABARNET  
REVISION CASE E109 OF 2024  
RB NGETICH, J  
FEBRUARY 3, 2025**

**BETWEEN**

**YEGO MORARENI ..... 1<sup>ST</sup> APPLICANT**

**KUTORO KAMAI ..... 2<sup>ND</sup> APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

1. The accused persons Yego Morareni & Kutoro Kamai were jointly charged with 2 counts of stealing stock contrary to section 278 of the [Penal Code](#). Particulars are as captured in the charge sheet.
2. Each of the two accused persons pleaded guilty to the 2 counts. Particulars of the charge were thereafter read to them and they confirmed the facts were true. I however note that instead of the court convicting the two accused persons upon confirming the facts, what followed were records from the prosecution counsel who said the accused persons were first offenders. Mitigation then followed and after mitigation, the trial court convicted Accused 1 for count I and Accused 2 for count II and proceeded to call for presentence report.
3. Record show that immediately after the trial court directing that presentence report be filed, the prosecution counsel applied to withdraw count I against Accused 2 and count II against Accused 1 so as to have each accused remain with one count. Particulars of the charge show the incident occurred the same night but in different villages and the complainants are also different. In my view, the accused persons should have been charged separately in different files. The prosecution should have also withdrawn the charge before plea taking. At time of plea and conviction, the two accused persons were jointly charged in both counts. Withdrawal of charge against one accused in each count was done after conviction. The process was therefore irregular.



4. Thirdly, on 10/12/2024 charges were re-read to the accused persons. This was done after conviction which is an error on the face of record. In view of irregularities set out above, I am inclined to set aside the proceedings herein and direct that each accused person be charged separately in different files. Mention before trial court on 5/2/2025.

**RULING DELIVERED, DATED AND SIGNED IN OPEN COURT AT KABARNET THIS 3<sup>RD</sup> DAY OF FEBRUARY 2025.**

**RACHEL NGETICH**

**JUDGE**

In the presence of

Elvis & Milliong'ar, Court Assistants.

Accused 1 present.

Accused 2 present.

