



**Republic v M’Kairemia (Criminal Case E088 of 2024)
[2025] KEHC 2856 (KLR) (4 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 2856 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MERU
CRIMINAL CASE E088 OF 2024
HM NYAGA, J
MARCH 4, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

ISAIAH MURIUNGI M’KAIREMIA ACCUSED

RULING

1. In an unusual application, the Accused has sought to defer the plea taking herein.
2. Counsel for the Accused states that the accused has been following up on the investigations in the matter and that forensic analysis of accused’s phone returned negative results.
3. The Accused seeks to have the reasons for him being charged availed to him. He says that he is a politician and that the intended charge is a play to bar him from running for office. He thus asks that the prosecution file be sent to the Regional office of the ODPP for review.
4. The Application was opposed by the Prosecution counsel. He argues that the ODPP is granted powers by the constitution to charge anyone in court and the court ought not to interfere with that power. It is further argued that if the accused has a case he should present it to the Regional office himself and if successful a nolle prosequi will be ordered. The Prosecuting counsel urged the court to discuss the application.
5. Under Article 157 of constitution the office of the Director of Public Prosecution is granted prosecution powers. It states as follows:-
(to cite)
6. Ordinarily, the court ought not to interfere with the functions of an independent institution unless it is proved that the exercise of such function is an abuse of office, is not in the public interest.



7. Thus, the court ought to refrain from micro-managing other constitutional or statutory bodies (offices in their day to day functions)
8. In the instant case, the intended accused is seeking to have the file taken to the Regional office of the ODPP.
9. Under Article 157 (a) of *constitution* the powers of the Director of Public prosecution maybe exercised in person or by subordinate officials acting in accordance with general or special instructions.
10. It follows that if the ODPP office in Meru has found it necessary to charge the accused that decision is lawful. This court cannot stop the prosecution of the accused, unless it is shown that the arraignment of the accused in court is an abuse of the legal process or is against public interest or the administration of justice.
11. Looking at the matter there is really nothing to show that the arraignment of the accused in court is anything contrary to the law.
12. In my view the Accused wants to take charge of his own prosecution, which is an unacceptable position. He like any other accused, ought to seek the evidence to be adduced against him in the trial itself. That right is guaranteed by *constitution*.
13. For the foregoing reasons, I find the application by the Accused to lack any merit and it is dismissed.
14. That said, the court retains the powers, when property moved and evidence tendered to stay any prosecution of any person, if it is shown that as stated, it is an abuse of the legal process.
15. The Accused should proceed to take plea.

SIGNED, DATED AND DELIVERED AT MERU THIS 4TH DAY OF MARCH, 2025.

H. M. NYAGA

JUDGE

