



Papai v DCIO - Amukura & 2 others (Miscellaneous Criminal Application E001 of 2025) [2025] KEHC 4223 (KLR) (4 April 2025) (Ruling)

Neutral citation: [2025] KEHC 4223 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUSIA
MISCELLANEOUS CRIMINAL APPLICATION E001 OF 2025**

WM MUSYOKA, J

APRIL 4, 2025

BETWEEN

LUKE PAPAI APPLICANT

AND

DCIO - AMUKURA 1ST RESPONDENT

CHIEF KOKARE 2ND RESPONDENT

REPUBLIC OF KENYA 3RD RESPONDENT

RULING

1. The applicant herein has moved the court by the Motion, dated 14th January 2025, seeking anticipatory bail, restraint of the 1st respondent from arresting him before further orders of the court, and that he be given audience to share out his issues and record a statement if need be.
2. The affidavit, sworn in support, alleges that the 1st respondent had severally summoned him to his office, and he fears being arrested. He expresses fear for his safety. He claims that he had been rebuked and even attacked by a mob at the police station. He fears that he would not get justice at the police station. He avers that his problems arise from some succession proceedings that he mentions.
3. The matter was filed under certificate of urgency and was placed before me on 17th January 2025. I directed that the same be served, for hearing inter partes on 22nd January 2025.
4. When the matter came up on 22nd January 2025, it became apparent that it had not been served, and I directed that service be effected on the Director of Public Prosecutions. I fixed it for mention on 27th January 2025.
5. On 27th January 2025, Mr. Onanda appeared, and acknowledged that his office had been served. He pointed out that there were supposed to be annexures to the application, but no documents had been



attached. The applicant undertook to file the same. The matter was put off to 24th February 2025. On that date the matter was put off again, for Mr. Onanda to file a reply.

6. The applicant filed another affidavit, sworn on 21st February 2025. He avers that his problems germinated from a land dispute, in which a number of succession causes and a civil suit had been filed. He alleges that fake certificates of death were obtained and used to initiate some of those causes. He claims that a woman, who claims to have been a widow of his father, had not provided proof of that fact. He also complains of being left out of a letter that had been written by a Chief.
7. He has attached to that affidavit several documents. There is a certificate of death for Wenslaus Omonya Omanyala, a bond and bail bond, a certificate of confirmation of grant and a certificate of death for Engislas Omanyala Egemi.
8. When the matter came up on 5th March 2025, Mr. Onanda stated that no charges were being levelled against the applicant, and there was no intention of initiating criminal proceedings against him. On his part, the applicant submitted that he had been arrested by the 1st respondent, and he had a charge sheet. He was taken to the office of Mr. Fwaya, Advocate, where he was forced to sign certain documents. Then he was released on bond.
9. I have difficulty understanding what the issue here is. The police have indicated that they have no issue with the applicant, going by the remarks by Mr. Onanda. The applicant appears to have family disputes, relating to land and succession. The best thing should be for him to pursue those land and succession causes to their logical conclusion, to eliminate the issues that appear to be the basis for his fears.
10. I have been unable to find merit in the Motion herein, dated 14th January 2025, and I hereby dismiss it. The interim orders, made herein on 22nd January 2025, are hereby discharged. Orders accordingly.

DELIVERED, DATED AND SIGNED IN OPEN COURT, AT BUSIA, ON THIS 4TH DAY OF APRIL 2025.

W MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant.

Mr. Luke Papai, the applicant, in person.

Advocates

Mr. Onanda, instructed by the Director of Public Prosecutions, for the respondents.

