



**Osege & another v Republic (Criminal Revision E019 of 2025)
[2025] KEHC 7518 (KLR) (3 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 7518 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION E019 OF 2025
DR KAVEDZA, J
JUNE 3, 2025**

BETWEEN

SALE NGANZI OSEGE 1ST APPLICANT

ZULUVA NEGERA OSEGE 2ND APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. This is a revision application brought under Articles 19, 20, 21, 22, 23(1), 24, 31, 40, 48, and 159 of the Constitution, Section 121(3) and 362 of the Criminal Procedure Code, and all enabling provisions of the law. The Applicant seeks orders to review, vary, or revise the ruling delivered by the Chief Magistrate’s Court at Kibera in Criminal Case No. E2046 of 2024: Republic v Sale Nganzi Osege, and for the release of motor vehicle registration number KDL 402M currently detained at Parklands Police Station.
2. The Applicants contends that the trial court erred in law and in fact by declining to release the said motor vehicle, stating that final orders would be issued upon conclusion of the trial. The Applicants argue that the ruling dated 23rd February 2024 is incorrect, illegal, and improper. It is submitted that the motor vehicle in question neither forms part of the evidence in the criminal proceedings nor is it alleged to have been involved in the commission of the offence.
3. The Applicants further aver that only they filed submissions before the trial court, while the Respondent failed to respond or contest the issues raised. It is also alleged that the trial court disregarded the Applicants’ affidavit evidence and submissions, failed to give adequate reasons for its decision, and issued an ambiguous ruling by referring to “pertinent issues” without clarification.
4. The Applicants also assert that the motor vehicle belongs to an interested party, who is not an accused person in the trial and merely loaned the vehicle to the accused, her brother, due to his ill health and familial responsibilities. The continued detention of the vehicle, it is argued, is punitive and unjustified.



5. It is the Applicants' position that the continued impoundment of the vehicle serves no prosecutorial purpose and unjustly deprives the interested party of the use and enjoyment of her property, contrary to constitutional guarantees.
6. The Applicants accordingly pray that the trial court's ruling of 23rd December 2024 be set aside and that motor vehicle KDL 402M be released forthwith.
7. In response, the respondent filed grounds of opposition dated 29th April 2025. The grounds raised are that the applicant has failed to demonstrate reasonable grounds upon which the ruling of the trial court may be varied or revised. Further, that they have not demonstrated procedural unfairness, illegality, or irregularity in the said ruling. In addition, the ownership of the motor vehicle in issue ought to be canvassed in the main trial. It was urged that the application lacks merit and ought to be dismissed.
8. The application was canvassed by way of written submissions which have been duly considered and there is no need to rehash them. The High Court's power of revision is set out in Article 165 (6) and (7) which provides: -
 6. The High Court has supervisory jurisdiction over the subordinate courts and over any person, body or authority exercising a judicial or quasi-judicial function, but over a superior court.
 7. For the purposes of clause (6), the High Court may call for the record of any proceedings before any subordinate court or person, body or authority referred to in clause (6), and may make any order or give any direction it considers appropriate to ensure the fair administration of justice.
9. The revisionary jurisdiction of the High Court was discussed by Odunga J in a persuasive decision of [*Joseph Nduvi Mbuvi vs Republic*](#) [2019] eKLR: -

“In my considered view, the object of the revisional jurisdiction of the High Court is to enable the high Court in appropriate cases, whether during the pendency of the proceedings in the subordinate court or at the conclusion of the proceedings to correct manifest irregularities or illegalities and give appropriate directions on the manner in which the trial, if still ongoing, should be proceeded with. In other words, the High Court's revisionary jurisdiction includes ensuring that where the proceeding in the lower court has been legally derailed, necessary directions are given to bring the same back on track so that the trial proceeds towards its intended destination without hitches. Not only is the jurisdiction exercisable where the subordinate court has made a finding, sentence or order but goes on to state that it is also exercisable to determine the regularity of any proceedings of any such subordinate court as well.”
10. The foregoing provisions vest this Court with revisionary jurisdiction over orders issued by subordinate courts. Consequently, this Court is duly seized of the requisite authority to entertain and determine the present application. In such applications, the onus lies on the applicant to demonstrate that the trial magistrate acted unlawfully, improperly, irregularly, or committed an error in the impugned decision or order.
11. From the record, the 1st applicant is charged with the offence of conspiracy to defraud contrary to section 317 of the [*Penal Code*](#), three counts of obtaining money by false pretense contrary to section 313 of the [*Penal Code*](#), two counts of uttering a false document contrary to section 353 of the penal code and making a document without authority contrary to section 357(a) of the [*Penal Code*](#). The applicant made an application dated 14th October 2024 seeking release of the subject motor vehicle. In response, PC Simon Mwaniki contended that In response, the Investigating Officer, PC Mwaniki,



stated that on 26th August 2024, he recorded a complaint of obtaining money by false pretences contrary to section 313 of the *Penal Code* against one Charles Ooko Nyagilo. Following this, court orders were obtained in Miscellaneous Applications No. E809/2024 and E827/2024 at Kibera Law Courts to facilitate investigations.

12. Account statements of the implicated subscriber numbers revealed one of the beneficiaries to be the 1st applicant accused, Sale Nganzi Osege, who was traced and arrested in Eldoret. Upon arrest, he was found in possession of motor vehicle registration KDL 402M, which was detained as suspected proceeds of crime.
13. The officer avers that although the 1st applicant seeks release of the vehicle to Zuluva Negura Osege, NTSA records show it is registered in the name of Andrew Kipngetch Kosgey. The officer suspects Zuluva is a proxy and notes that she has yet to record a statement or produce proof of ownership.
14. Upon consideration of the application, the affidavit evidence, and the respective submissions, the trial court rendered its decision declining to release motor vehicle registration number KDL 402M. The court found that pertinent issues had been raised regarding the vehicle's ownership, which are central to the pending criminal proceedings. It was therefore directed that such matters be addressed during the main trial.
15. It is important to state that, should the question of ownership be conclusively resolved prior to the determination of the main suit, the trial court retains the discretion to make appropriate orders on the release or continued detention of the vehicle.
16. From the record, the investigating officer had confirmed ongoing investigations. Releasing the vehicle at this juncture pending the conclusion of any investigations, would be premature and risk undermining the integrity of the investigative process.
17. Nonetheless, while acknowledging that investigations may be complex and time-consuming, they must be concluded within a reasonable timeframe so as not to prejudice the rights of any lawful owner whose property remains impounded. The continued detention of property without resolution would offend the principles of fairness and proportionality.
18. From the foregoing, I find that the applicant has not demonstrated any illegality, irregularity, mistake, or impropriety sufficient to invoke its supervisory jurisdiction under section 362 of the *Criminal Procedure Code*, however, hasten to state that the investigating officer is hereby directed to finalise investigations within thirty (30) days and file a report with the trial court, to enable the court to make a final determination on the question of release of the subject motor vehicle.
19. The matter shall be mentioned by the trial court on 9th July 2025 for directions.

Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 3RD DAY OF JUNE 2025

D. KAVEDZA

JUDGE

In the presence of:

Mr. Mwaniki for the Applicants

Mr. Mutuma for the Respondent



Tonny Court Assistant.

