



REPUBLIC OF KENYA



KENYA LAW
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**Republic v Omuseny & 2 others (Criminal Case E002 of 2025)
[2025] KEHC 12766 (KLR) (18 September 2025) (Ruling)**

Neutral citation: [2025] KEHC 12766 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KITALE
CRIMINAL CASE E002 OF 2025**

RK LIMO, J

SEPTEMBER 18, 2025

BETWEEN

REPUBLIC PROSECUTOR

AND

JOSEPH OMUSENYE ALIAS MAASAI FUNDI 1ST ACCUSED

JOSEPH KIMANI 2ND ACCUSED

BILL MUHINGA MUNAJI 3RD ACCUSED

RULING

1. The State through the Office of Director of Public Prosecution has applied to terminate this criminal proceedings against Joseph Kimani and Bill Muhinga Munaji (2nd and 3rd accused persons respectively) by entering nolle prosequi. The reason given by the prosecution is that upon reviewing the evidence they have, it has formed the opinion that the evidence against the 2nd and 3rd accused is wanting and hence its decision to apply to terminate the proceedings.
2. This court finds that the Director of Public Prosecution has discretion donated to it under Article 157 6(c) to discontinue criminal proceedings against anyone before judgment save that the discontinuation shall only be done with the permission of the court as provided under Article 157(8) of *the Constitution*.
3. The prosecution should at all times ensure that the evidence they have is sufficient to sustain a charge before making decisions to prefer charges in light of the provisions of Article 157(11) of *the Constitution*. This is to ensure that court process is not abused.
4. Having said that this court finds no reason to fault the State for this application and the same is allowed. The proceedings against Joseph Kimani and Bill Muhinga Munaji are hereby terminated. They are discharged and the sureties are discharged as well. Their securities be returned to them.

DELIVERED, DATED AND SIGNED AT KITALE THIS 18TH DAY OF SEPTEMBER, 2025.



HON JUSTICE R.K. LIMO
KITALE HIGH COURT

