



**Republic v Hussein (Criminal Case E060 of 2025)
[2025] KEMC 209 (KLR) (18 August 2025) (Judgment)**

Neutral citation: [2025] KEMC 209 (KLR)

**REPUBLIC OF KENYA
IN THE LAMU LAW COURTS
CRIMINAL CASE E060 OF 2025
FM MULAMA, RM
AUGUST 18, 2025**

BETWEEN

REPUBLIC PROSECUTOR

AND

OMAR MOHAMED HUSSEIN ACCUSED

JUDGMENT

A. Introduction

1. The accused person is charged with the offence of being in possession of narcotic drugs contrary to section 3(1) as read with section 3(2)(a) of the narcotic Drugs and Psychotropic substances Control Act No. 4 of 1994.
2. The particulars were that on 8/4/2025 at Mkomani area at around 0400hours in Mkomani area in Langoni they found the accused with 3 sachets of bhang with a street value of Kshs.900/= which were not in medical preparation form.
3. 3 witnesses were called to testify and after their testimony the court was of the view that a case had been established as against the accused person and he was subsequently placed to his defence.

The Prosecution's case.

4. It is the prosecution's case through the evidence of PW 1 CPL Patrick Kitangata that while on patrol with other officers to wit PC Mariga, Kosgei and Mutugi and others and while being led by IP Kuria met a man in Mkomani area and when he saw them he escaped but PC Mariga and Manani were faster than him and he was arrested and they found him with a bag which had clothes in it and PC Mariga conducted a search and in his right trouser pocket he retrieved 3 sachets of bhang. He was arrested and taken to police custody and thereafter processed for court. Pw 2 corroborated the evidence of the Pw 1.



5. In cross exam the accused was so much concerned with what the officers were wearing and why the police officers never took a photo or video of what transpired and as such did very little to challenge the evidence by the state.

The Defence case.

6. In his defence the accused stated that on the material day at 0450hours left his house and was headed to the mosque for the morning prayers and on the way, he met the officers and who asked to conduct a search on him and after the search, they did not get anything on him and that contrary to the testimony of the officers, he never escaped when he was intercepted.

B. Issue for Determination.

7. Has the prosecution proved the charges against the accused person beyond reasonable doubt? In order to answer this question in the affirmative the following issues are to be determined in the affirmative.
 - a. Whether the accused person was in possession of the substance suspected to be bhang.
 - b. That the substance found in possession of the accused is a narcotic drug.

C. Analysis and Determination.

Possession

8. In order to prove the offences against the accused person, it was the evidence of Pw 1 and 2 that when they met the accused and requested to do a search on him, Pw 2 retrieved 3 sachets of bhang from his right trouser pocket.
9. The accused denies this. In his defence he does not state how it came about that the police officers found him in possession of the said bhang. For instance he does not even allege that the said bhang was planted on him and generally in cross examination he never prompted any of the officers as to how they found him in possession. He instead went on a frolic of his own and sought to know what the officers were wearing.
10. The evidence of the prosecution as to possession is thus not shaken and the accused did very little to offer any alternative explanation and as such I find and hold that the prosecution indeed proved that the accused was in possession of the 3 sachets of bhang from his right trouser pocket.
11. On the 2nd limb of the element is whether the substance in the 3 sachets found with the accused is bhang. The accused did not challenge the report by the government analyst and the findings made in the report dated 23rd June 2025.
12. The finding by the analyst is such that the substance in the 3 sachets was found to be cannabis which is a narcotics as per the Act. I am thus convinced that the element has been proved beyond any doubt.

D. Conclusion and Disposition.

13. The upshot of the foregoing is that the charge against the accused has been proved beyond any doubt.
14. The accused person is guilty as charged and he is accordingly convicted for the said offence under section 215 of the Criminal Procedure Code.
15. Orders accordingly.



DATED, SIGNED AND DELIVERED AT LAMU LAW COURTS THIS 18TH DAY OF AUGUST 2025.

F.M. MULAMA

RESIDENT MAGISTRATE

In the presence of:

Ahmed Omar for DPP.

Omar Mohamed Hussein.

Court Assistant:- Fathiya Loo.

