



**Mwangi & another v Republic (Criminal Appeal E074 & E075 of 2025
(Consolidated)) [2025] KEHC 15179 (KLR) (28 October 2025) (Judgment)**

Neutral citation: [2025] KEHC 15179 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL APPEAL E074 & E075 OF 2025 (CONSOLIDATED)**

**DR KAVEDZA, J
OCTOBER 28, 2025**

BETWEEN

PAUL MWAURA MWANGI 1ST APPELLANT

SOSPETER KUNGU NGUGI 2ND APPELLANT

AND

REPUBLIC RESPONDENT

*(Being an appeal from the conviction and sentence delivered by Hon. Murage
(PM) on 19th May 2025 at Kibera Chief Magistrate's Court, Criminal case no.
E793 of 2021 Republic vs Sospeter Kungu Ngungi & Paul Mwaura Mwangi)*

JUDGMENT

1. The appellants were jointly charged and, after a full trial, convicted of the offence of extortion contrary to section 300(1)(a) of the Penal Code. Each was sentenced to three years' imprisonment. In count II, the first applicant was separately charged and convicted of the offence of illegal reconnection of electrical energy after disconnection contrary to section 168(1)(c) of the *Energy Act* No. 1 of 2019. He was sentenced to one year's imprisonment, the sentences to run concurrently.
2. Being dissatisfied with both conviction and sentence, each applicant filed a separate appeal. The appeals were subsequently consolidated by this Court. In the consolidated appeal they challenged the totality of the prosecution's evidence against which they were convicted. They urged the court to quash their conviction and set aside the sentence imposed.
3. Before grappling with the grounds of appeal aforesaid, I am mindful that the first appellate court is under a duty to re-evaluate the evidence presented at trial and draw its own independent conclusions. Except, it must bear in mind that it neither saw nor heard the witnesses give their testimonies. Thus, matters of demeanour are best observed by the trial court. (See *Okeno vs. Republic* [1972] E.A 32.)



4. The prosecution case was as follows: PW1, Esther Kanda, a Security Officer with Kenya Power and Lighting Company (KPLC), testified that on 12th April 2021 she received a call from an officer of the Ethics and Anti-Corruption Commission (EACC) reporting that a KPLC employee was soliciting bribes from customers in exchange for services. She referred the officer to her superior, who advised on the procedure for investigation. On 14th April 2021 she received an email from EACC instructing her to facilitate the inquiry and was given Kshs 30,000 by the KPLC Manager to be used as bait money. She identified the email and the currency notes with serial numbers. She handed the matter to Chief Inspector Owino, who took charge of the criminal investigation and liaised with the Ethics and Integrity Officer who had initially reported the matter. She was later informed that the appellants had been arrested, and the bait money retained as an exhibit.
5. She identified a complaint letter dated 9th July 2021 from Stephen Biko Komutho. She confirmed that the 2nd appellant was a technician attached to Nairobi West, responsible for meter installations. On cross-examination, she stated that the company had provided the money for the operation and that she was informed of negotiations between the appellants and Stephen Biko for a sum of Kshs 30,000. She did not, however, personally inspect the meter in question.
6. PW2, Catherine Wanjiku Njaga, also a KPLC employee, testified that on 16th April 2021 she received a call from the security department informing her that Sospeter (the 2nd appellant) had been arrested. She had assigned duties to him earlier, including attending to a customer's complaint at Nyayo Highrise regarding a faulty meter. On 7th April 2021, the same meter had been tampered with and left disconnected by the appellants. She did not receive the usual DI note from the appellants detailing the issue. Upon his arrest, the 2nd appellant was found with DI notebooks, including one labelled "Mount Kenya", which she described as unusual. She identified the DI notes and confirmed that the pink copy of the note should have been left with her but was not. She added that Sospeter should have reported the faulty meter formally and ensured the customer was issued with a DI copy. She did not know the first appellant.
7. PW3, Stephen Biko Komutho, testified that on 15th April 2021, his neighbour had a meter issue which the 2nd appellant attended to. Upon inspection, the second appellant also disconnected PW3's meter and issued a receipt to PW3's brother addressed to the landlord. PW3 later found the appellants within the estate and inquired why his power had been disconnected. The appellants advised him to check with KPLC about arrears, then offered to "sort him out" privately for Kshs 50,000. The appellants issued him with a DI note to that effect. When PW3 was unable to raise the money, the first appellant sent his proxy, who disconnected the meter again.
8. PW3 contacted KPLC's Legal Department, which referred him to the EACC and subsequently to DCI officers. A sting operation was arranged, and PW3 was given Kshs 30,000 in marked notes to hand to the appellants. He identified the bait money. The 2nd appellant accepted the money, tore the original receipt, and was arrested by DCI officers while heading to his car. PW3 identified the receipt. He further stated that after the arrest, the proxy, Paul Mwaura (the 1st appellant), reconnected the meter. On cross-examination, he confirmed that he had reported the faulty meter and that the first appellant was a resident within the estate.
9. PW4, Corporal Daniel Njoroge, also attached to KPLC, testified that on 15th April 2021 he received a call from Chief Inspector Owino regarding a letter from KPLC's Ethics and Legal Department about a customer's complaint of extortion by a staff member. He met PW3 and the officers at Nyayo Highrise, where PW3 identified his house and produced the receipt issued by the 2nd appellant. PW4 took a photograph of the receipt, issued the bait money, and instructed PW3 to call the appellants.



- The appellants arrived, and PW3 handed him the marked notes. The 2nd appellant tore the receipt and reconnected the power. As the two returned to their vehicle, the officers ambushed and arrested them.
10. The 2nd appellant's motor vehicle, registration KCH 964V Toyota Fielder, was searched. The officers recovered Kshs 30,000 in Kshs 1000 denominations and several KPLC meters in the boot. A customer interface unit (CIU) was recovered from the right pocket of the 1st appellant. An inventory was prepared, and the exhibits produced, including the withdrawal voucher for Kshs 30,000, the bait money, installation inspection reports, the CIU, the inventory, staff ID, photographs of the vehicle, internal memo, and certificate of photographic print. On cross-examination, he stated he was about 30 metres away when the appellants arrived at PW3's house and confirmed that the CIU was recovered from the 2nd appellants. At the close of the prosecution case, both appellants were placed on their defence.
 11. DW2, Paul Mwaura Mwangi, the 1st appellant and a caretaker at Nyayo Highrise, testified that on 7th April 2020 he was called by a tenant to assist with a power issue. After checking the problem, he met the 2nd appellant, who advised him to report the matter for replacement of the CIU. While speaking to him, a vehicle stopped nearby, and plain-clothed officers emerged, handcuffed them, and took them to the police station. He denied being an electrician or receiving any money.
 12. DW1, Sospeter Kungu Ngugi, the 2nd appellant, admitted being a KPLC employee and stated that in April 2021 he had been assigned to inspect and, where necessary, disconnect and reconnect meters at Nyayo Highrise. He discovered that PW3's meter had not been paid for nearly two years, wrote a DI report, disconnected and sealed the meter, and directed PW3 on the proper procedure for reconnection. He claimed that PW3 later reconnected the meter illegally, forcing him to disconnect it again. He stated that on the day of arrest, he was replacing another customer's faulty meter when PW3 approached him, asking for assistance, which he declined. He was arrested while returning to his vehicle.
 13. He denied soliciting or receiving any bribe and denied that money was recovered from his car. On cross-examination, he admitted that money was found in his boot, which he had opened himself, though he later contradicted this in re-examination.
 14. The appeal was canvassed by way of written submissions which have been duly considered and there is no need to rehash them.
 15. Section 300(1) of the Penal Code defines the offence of extortion as the act of intentionally putting or attempting to put any person in fear of injury, with the purpose of dishonestly inducing that person to deliver any property or valuable security. The prosecution must therefore prove that the accused (i) made a threat or used intimidation, (ii) did so dishonestly, and (iii) obtained or attempted to obtain money or a benefit as a result.
 16. From the evidence of PW3, corroborated by PW1 and PW4, Sospeter Kungu Ngugi (the 2nd appellant disconnected the complainant's electricity supply and subsequently demanded Kshs 50,000 to reconnect it. When the complainant was unable to pay, the 2nd appellant sent another person to disconnect the power meter again. The 2nd appellant later met PW3, received Kshs 30,000 in marked notes, tore the initial receipt, and reconnected the power. The recovery of the bait money from his vehicle, as confirmed by PW4, coupled with his inconsistent defence, firmly establishes that he used his position at KPLC to induce payment through intimidation and misuse of authority. His actions fall squarely within the ambit of section 300(1) of the Penal Code.
 17. As regards Paul Mwaura Mwangi (the 1st appellant) there is no credible evidence linking him to the extortion. His mere presence at the scene and recovery of a customer interface unit in his pocket,



without proof of knowledge or participation in the solicitation or receipt of money, is insufficient to sustain a conviction.

18. Accordingly, I find that the offence of extortion contrary to section 300(1) of the Penal Code was proved beyond reasonable doubt against Sospeter Kungu Ngugi, but not against Paul Mwaura Mwangi, who is hereby acquitted.
19. In count II, the 1st appellant was separately convicted for the offence of illegal reconnection of electrical energy after disconnection contrary to section 168(1)(c) of the *Energy Act* No. 1 of 2019. Section 168(1)(c) of the *Energy Act* No. 1 of 2019 provides that any person who, without the authority of a licensee, reconnects electrical energy supply that has been lawfully disconnected commits an offence.
20. The prosecution must therefore establish that (i) the power supply was lawfully disconnected, (ii) the accused reconnected it, and (iii) such reconnection was done without authority.
21. The evidence of PW3 was clear that following the lawful disconnection of his power by Sospeter Kungu Ngugi the electricity was later reconnected by Paul Mwaura Mwangi after the 2nd appellant had received Kshs 30,000. PW4 corroborated this testimony, confirming that after the arrest of the appellants accompanied the complainant to his house and physically reconnected the power supply. At the time of his arrest, a customer interface unit (CIU) was recovered from the 1st appellant's right pocket, further linking him to the act.
22. It is not in dispute that Paul Mwaura Mwangi was not a KPLC employee and therefore had no authority or mandate to handle or reconnect electrical installations. His act of reconnecting power, as described by PW3 and confirmed by PW4, was clearly unauthorised and contrary to law. His involvement was active and deliberate, and the recovery of the CIU demonstrates his participation in executing the unlawful reconnection.
23. In the circumstances, I find that the prosecution adduced sufficient and credible evidence proving that Paul Mwaura Mwangi, without lawful authority, reconnected electrical energy previously disconnected by KPLC. The offence of illegal reconnection of electrical energy contrary to section 168(1)(c) of the *Energy Act* No. 1 of 2019 was therefore proved against him beyond reasonable doubt. The conviction by the trial court was therefore proper and is upheld.
24. On sentence, in Count I, both appellants were sentenced to three (3) years' imprisonment. Having found that the conviction in Count I was not proved beyond reasonable doubt against the 1st appellant, Paul Mwaura Mwangi, the said conviction and sentence are hereby quashed. However, with respect to the 2nd appellant, Sospeter Kungu Ngugi, the conviction for extortion contrary to section 300(1) of the Penal Code was properly founded on cogent evidence. The sentence of three (3) years' imprisonment imposed by the trial court is therefore affirmed. In the alternative to the custodial sentence, the 2nd appellant shall pay a fine of Kshs. 50,000, in default to serve six (6) months' imprisonment.
25. In Count II, relating to the offence of illegal reconnection of electrical energy contrary to section 168(1)(c) of the *Energy Act* No. 1 of 2019, the conviction against the 1st appellant, Paul Mwaura Mwangi, was proved beyond reasonable doubt. The sentence of one (1) year's imprisonment imposed by the trial court is hereby upheld. In the alternative to the custodial sentence, the 1st appellant shall pay a fine of Kshs. 50,000, in default to serve six (6) months' imprisonment.

Orders accordingly.

JUDGEMENT DATED AND DELIVERED VIRTUALLY THIS 28TH DAY OF OCTOBER 2025

D. KAVEDZA



JUDGE

In the presence of:

Ms. Ouno for the 1st appellant

Mr. Musyoka for the 2nd appellant

Mr. Mutuma for the Respondent.

Ms. Karimi Court Assistant

