



**Republic v Emini (Criminal Case E001 of 2024)
[2025] KEHC 16140 (KLR) (6 November 2025) (Ruling)**

Neutral citation: [2025] KEHC 16140 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT VIHIGA
CRIMINAL CASE E001 OF 2024
JN KAMAU, J
NOVEMBER 6, 2025**

BETWEEN

REPUBLIC PROSECUTION

AND

NATHANIEL NGOTA EMINYI ACCUSED

RULING

1. The Accused person has been charged with the offence of murder contrary to Section 203 as read with Section 204 of the Penal Code Cap 63 (Laws of Kenya). The matter did not proceed for hearing on 30th October 2025 as his counsel was not present. There had been an indication of his entering into a Plea Bargain Agreement. This does not appear to have materialised. The Court and the Prosecution were, therefore, ready to proceed with the hearing of the case today.
2. However, counsel for the Accused person has now informed this court that the Accused person and the deceased's family wish to negotiate this matter out of court. While the court can insist on the matter proceedings, there are possibilities of witnesses becoming hostile or refractory witnesses. The deceased's family should therefore be permitted to enter into a settlement where justice is not only done, in their eyes but that justice is seen to have been one, in their eyes.
3. The Accused person and the deceased's family wish to resolve this matter through Maragoli Customary Law. The court is aware of the place of Alternative Justice System (AJS) in resolving disputes. Indeed, Article 159(2) (c) of *the Constitution* of Kenya, 2010 provides as follows:-

“In exercising judicial authority, the courts and tribunals shall be guided by the following principles-

alternative forms of dispute resolution including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms shall be promoted subject to clause 3”



4. Article 159(3) of *the Constitution* of Kenya further stipulates that ;

“Traditional disputes resolution mechanism shall not be used in a way that:-

- a. contravenes the Bill of Rights
- b. is repugnant to justice and morality or results in outcomes that are repugnant to justice of morality
- c. is inconsistent with *the Constitution* or any written law.

Disposition

5. Accordingly having heard counsel for the Accused person and counsel for the Prosecution, I am persuaded to take out this matter out of today’s cause list to allow the Accused person and the deceased’s family explore possibilities of resolving this matter through AJS under the Maragoli Customary Law as cases of murder are not excluded from such resolution under *the Constitution* of Kenya.
6. Matter to be mentioned on 27th January 2026 with a view to recording a consent and/or for further orders and/or directions.
7. Jones Njeri Malongo and Florence Kavere to be reimbursed their witness expenses for today’s court attendance.
8. Orders accordingly

DATED AND DELIVERED AT VIHIGA THIS 6TH DAY OF NOVEMBER 2025

J. KAMAU

JUDGE

