



REPUBLIC OF KENYA



**Busuru v Republic (Criminal Petition E056 of 2023)  
[2025] KEHC 9111 (KLR) (27 June 2025) (Ruling)**

Neutral citation: [2025] KEHC 9111 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT ELDORET  
CRIMINAL PETITION E056 OF 2023  
RN NYAKUNDI, J  
JUNE 27, 2025**

**BETWEEN**

**KELVIN OMUSE BUSURU ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

**RULING**

Coram: Justice R. Nyakundi

M/s Sidi for the State

1. The applicant before this court was charged with the offence of stealing contrary to section 268 as read with section 275 of the *Penal Code*, where it was alleged that he stole a motorbike registration number KMGG 350 J at Pioneer Watu Credit Limited and worth Kshs. 136,890/=. He filed an application dated 6<sup>th</sup> June, 2024 seeking orders as follows:
  - a. That the petitioner is challenging the lawfulness of being placed in pre-trial custody over charges that ought to be a civil matter, that is a motorcycle loan, which is unlawful, unreasonable and procedurally unfair. In reliance to section 362 as read with 364 I pray that this matter be revised
  - b. That the respondent actions were in breach of his fundamental rights and freedom where his right to fair administrative action, where the 1<sup>st</sup> Respondent instituted charges in contravention of section 7 of the *fair administrative action Act* 2011 and Article 10, 47 of the *constitution* 2010. I am praying to the court to declare my right was violated and set me at liberty from unlawful detention.



- c. That the 1<sup>st</sup> Respondent exercised its mandate in commencing stealing charges for the petitioner in contravention of Article 157 (11) of the [constitution of Kenya](#). I am praying that the court corrects this violation.
- d. That the petitioner will be invoking the provisions of Article 159(2) for the Honorable court to exercise its power to prohibit, stay the proceedings by the 1<sup>st</sup> Respondent from abusing the criminal process to settle a civil claim.
- e. That the prosecution's case is in contravention of the provisions of Article 10 on the rule of law principle of the [constitution of Kenya 2010](#).
- f. That the petitioner is seeking for order of habeas corpus to be relieved from unlawful detention

**Decision.**

2. I have carefully perused through the record in its entirety and taken note that the parent proceedings were concluded since the matter was withdrawn under section 87(a) of the [Criminal Procedure Code](#) and marking the instant application as spent.
3. The file is therefore marked as closed.
4. Orders accordingly.

**SIGNED, DATE AND DELIVERED AT ELDORET THIS 27<sup>TH</sup> DAY OF JUNE 2025.**

.....

**R. NYAKUNDI**

**JUDGE**

