



**Kamau v Republic (Miscellaneous Criminal Application
E117 of 2025) [2025] KEHC 11140 (KLR) (29 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 11140 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
MISCELLANEOUS CRIMINAL APPLICATION E117 OF 2025**

DR KAVEDZA, J

JULY 29, 2025

BETWEEN

PETER KAMAU APPLICANT

AND

REPUBLIC RESPONDENT

*(Being an application for revision of the orders of the trial court
in Criminal Case No. E2184 of 2024 Republic vs Peter Kamau)*

RULING

1. Before the trial court, the applicant is facing three counts of offences namely: two counts of robbery with violence contrary to section 296(2) of the [Penal Code](#) and 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. He pleaded not guilty on all counts and is awaiting trial.
2. The applicant has filed an undated Notice of Motion seeking revision of the trial court's orders. Specifically, he urges this court to revise the trial court's ruling and permit the withdrawal of the matter on the basis that the complainant no longer wishes to proceed with the case. He relies on Article 159(2) (c) of the [Constitution](#) which obliges courts to promote reconciliation.
3. I have considered the application, the supporting affidavit, and the applicable law. The record confirms that one of the complainants, James Gaita Mwangi, has sworn an affidavit dated 29th April 2025 indicating his wish to withdraw the complaint. The application is grounded on this expression of intent.
4. However, the court record shows that the case involves multiple complainants. The affidavit on record is from only one complainant. No similar indication has been made by the other complainant(s), nor has there been any joint or consolidated position taken by all the complainants in the case. It follows



that the withdrawal of the matter cannot proceed solely on the basis of one complainant's wishes, where others remain on record and have not expressed the same position.

5. The jurisdiction of this court under the revisionary powers provided in sections 362 and 364 of the *Criminal Procedure Code* is limited to correcting illegalities, irregularities or improprieties in proceedings. It is not meant to substitute the discretion of the trial court, especially in matters involving factual determinations such as whether withdrawal by the complainant is appropriate in a case with multiple victims.
6. Moreover, while Article 159(2)(c) of the *Constitution* calls upon courts to promote reconciliation, this provision must be read alongside the requirement to uphold the rule of law and protect the rights of all victims. Where there is more than one complainant, reconciliation must be inclusive and not pursued in a manner that prejudices other affected parties.
7. In the circumstances, I find no merit in the application. The request to revise the trial court's order and permit withdrawal of the matter is premature and not supported by a consensus of all complainants.
8. The application is accordingly dismissed.

Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 29TH DAY OF JULY 2025

D. KAVEDZA

JUDGE

