



THE SUPREME COURT OF KENYA
JUSTUS OCHIENG -VS- ATTORNEY GENERAL
SC PETITION NO. E051 OF 2025
DATE OF JUDGMENT: 15TH MAY 2026
MEDIA SUMMARY

The following explanatory notes is provided to assist the media in reporting this case and is not binding on the Supreme Court or any member of the Court

Orders: The Court dismisses the appeal.

Background

The appellant, a journalist with the Star Newspaper, in October 2014 published a story titled ‘mystery over return of cops’ stolen money’ and an editorial on the same paper titled ‘arrest robber with CID day job’. Following the publications, he received death threats and reported the matter at Kisumu Central Police Station. The appellant was soon after arrested, detained, and tortured, released on a personal bond, re-arrested, and again released without charge. The appellant subsequently reported the matter to Nyando Police Station and filed a constitutional petition challenging the violation of his fundamental rights.

At the High Court, the appellant asserted that he was lawfully exercising his constitutional right to freedom of expression when he published the articles, and his arrest and detention amounted to a violation of constitutional rights. He claimed that while in custody, he was physically assaulted by police officers, and sought general and special damages for the alleged violations. In response, the respondent maintained that the appellant’s arrest was lawful, arising from allegations of criminal libel linked to his reporting, and that he had been informed of the reasons for his arrest. The respondent further contended that the appellant had been unruly while in custody and that his claims of assault were investigated and found to be unsubstantiated. The High Court held that the appellant’s arrest was lawful and that there was insufficient evidence to prove violations of his rights to freedom of expression and access to justice. However, the court found that the appellant had been subjected to torture while in custody and awarded Kshs. 100,000 general damages.

On appeal, the Court of Appeal dismissed the appeal and sustained the award of 100,000/- granted by the High Court.

In the appeal before the Supreme Court, the Court framed the following issues for determination:

- i. Whether this Court has jurisdiction to entertain the appeal, and if so;**
- ii. Whether the appellants' rights under Articles 25, 29, 33, 48, 49, and 51 of the Constitution were violated; and**
- iii. Whether the appellant is entitled to enhanced damages of 15,000,000.**

Upon consideration, the Supreme Court has dismissed the appeal for the following reasons:

- i. Issue 1** - The Court has jurisdiction to hear and determine the matter.
- ii. Issue 2** - the appellant's rights under Article 25 of the Constitution were violated. However, the appellant's rights under Articles 29, 33, 48, 49, and 51 of the Constitution were not violated.
- iii. Issue 3** - The Court sustained the award of Ksh. 100,000 as granted by the trial court and the Court of Appeal.

Accordingly, the Supreme Court grants the following orders:

- i. The petition of appeal dated 15th December, 2025, and filed on 16th December, 2025, is hereby dismissed;**
- ii. The award of damages of Kshs. 100,000/- is hereby upheld;**
- iii. We hereby direct that the sum of Kshs 6,000 deposited as security for costs upon lodging of this appeal be refunded to the depositor;**

ENDS
8TH MAY 2026
NAIROBI

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