



**Tuei v Republic (Miscellaneous Criminal Application
E070 of 2021) [2023] KEHC 190 (KLR) (25 January 2023) (Ruling)**

Neutral citation: [2023] KEHC 190 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAKURU
MISCELLANEOUS CRIMINAL APPLICATION E070 OF 2021**

**HK CHEMITEI, J
JANUARY 25, 2023**

BETWEEN

ISAIAH KIPKORIR TUEI APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant herein was accused of obtaining money by false pretences from 6 different persons on diverse dates. He was charged vide Molo Criminal Cases Nos 1010 of 2022 and sentenced to serve 6 months' imprisonment, Criminal Case No 1011 of 2020 and sentence to serve one-year imprisonment, 1012 of 2020 and sentence to serve 3 years' imprisonment, Criminal Case No 1016 of 2020 and sentence to serve 12 months' imprisonment, Criminal Case No 1179 of 2020 and sentence to serve 6 months' imprisonment and Criminal Case No 1013 of 2020 and sentence to serve 3 years' imprisonment.
2. The applicant has filed this application seeking that the sentence ought to have run concurrently and not consecutively as directed by the trial courts. In his supporting affidavit he stated that he has since reformed and was very remorseful and thus this court ought to consider his plea.
3. The learned state counsel has opposed the application on the ground among others that the offences were committed on diverse dates and the trial court was therefore in order in ruling that the sentences ought to run concurrently. He said that the said sentences were not illegal or unlawful or at all.
4. The court has perused all the files and notes that the applicant defrauded the complainants an aggregate sum of about Kshs 1.7 million. He was convicted on diverse dates by three judicial officers namely honourable Mukenga, Yator and Nderitu. He was either given an option of fine or serve a custodial sentence.



5. Considering the above facts this court cannot interfere with the findings of the judicial officers and they did so within the confines of the law. It would have perhaps been different if all the charges had been clustered together and be in the same court. In this case the matters were prosecuted differently as they can be discerned from their numbering and the courts.
6. Consequently, this court agrees with the respondent. The applicant was found to be a habitual fraudster. There is no evidence except in Case No 1016 of 2020 to show that he refunded the complainants their money. Had he showed any iota of such this court would have considered probably the prayers sought.
7. For now, the application is unmeritorious and the same is hereby dismissed.

DATED SIGNED AND DELIVERED VIA VIDEO LINK AT NAKURU THIS 25TH DAY OF JANUARY 2023.

HK CHEMITEI

JUDGE

