



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KERICHO

MISC. CRIMINAL APPLICATION NO.16 OF 2019

VICTOR KIPRONO MENJO.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

1. The Applicant herein VICTOR KIPRONO MENJO filed this Misc. Criminal Application No.16 of 2020 seeking the following orders:

i) THAT the Application be certified urgent and be heard on priority basis.

ii) THAT the court be pleased to order that the sentence imposed by the CM's Court Kericho on 12/7/2019 in Criminal Case No.4538 of 2016 to run concurrently with the 15 years sentence in Eldama Ravine Criminal Case No.112 of 2011.

2. The Application is supported by the affidavit of the applicant filed in court on 6/12/2019 in which he has deposed that he was convicted in Eldama Ravine PMCC No.112/2011 with Defilement contrary to section 8(1) as read with section 8(4) of the Sexual Offences Act (SOA) and he was sentenced to 15 years imprisonment.

3. The Applicant stated that while in prison, he committed another offence of assault and was subsequently charged in Kericho CMCC No.4538 of 2016 and he was again sentenced to 6 months imprisonment.

4. The Applicant is now seeking for orders that the two sentences run concurrently. The Application was opposed by the Respondent for reasons that the two offences are not related.

5. I find that the Applicant committed the second offence while in prison. The two offences are not related and his application to have the sentence to run concurrently is rejected.

6. The Applicant is expected to reform and not to continue committing other crimes while in custody and the only way to deter him is to have the two sentences run consecutively.

7. The 2016 Judiciary of Kenya Sentencing Policy Guidelines lists the objectives of sentencing at page 15, paragraph 4.1 as follows:

“Sentences are imposed to meet the following objectives:

1. Retribution: To punish the offender for his/her criminal conduct in a just manner.

2. Deterrence: To deter the offender from committing a similar offence subsequently as well as to discourage other people from committing similar offences.

3. Rehabilitation: To enable the offender reform from his criminal disposition and become a law abiding person.

4. Restorative justice: To address the needs arising from the criminal conduct such as loss and damages. Criminal conduct ordinarily occasions victims', communities' and offenders' needs and justice demands that these are met. Further, to promote a sense of responsibility through the offender's contribution towards meeting the victims' needs.

5. Community protection: To protect the community by incapacitating the offender.

6. Denunciation: To communicate the community's condemnation of the criminal conduct

8. The whole purpose of criminal justice is to reform offenders and not to make them defiant.

9. The Application by the Applicant is rejected and this court directs that he first serves the 15 years imprisonment and then 6 months imprisonment for the offence committed while in prison.

10. The Applicant is warned against engaging in criminal activities while in jail.

11. I accordingly dismiss his undated Application filed in court on 16/12/2019 for want of merit.

Delivered, dated and signed at Kericho this 28th day of July 2020.

A. N. ONGERI

JUDGE