

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

CRIMINAL APPEAL NO.365 OF 2000

**(From original conviction and sentence in Criminal
Case No.888/2000 of the Senior Resident Magistrate's
Court at MOLO –C.M.A. ONGONDO(D.M.II) PROF.**

**PETER MUTERA KURIA.....APPELLANT
VERSUS
REPUBLIC.....RESPONDENT**

J U D G M E N T

This appeal is against sentence only. The Appellant was convicted of 7 counts of handling stolen goods and sentenced to one year's imprisonment in each count and the sentence ordered to run consecutively. The Appellant submits that the sentences should have run concurrently.

The Learned State Counsel does not oppose the appeal on grounds that the goods that formed the basis of each count were all found in one house where the Appellant led the police. In the persuasive authority of Ondieki –v- Rep 1981 KLR 430, 444 it was held on:-

“The practice is that where someone commits more than one offence at the same time and in the same transaction, save in very exceptional circumstances, to impose concurrent sentences. There are no exceptional circumstances here.”

The Appellant was convicted of handling stolen goods recovered from a house where the Appellant led the police. The Appellant was therefore found guilty of handling goods in the seven counts, found in his possession at one go. The offences can be said to have been committed in the same transaction.

There were no exceptional circumstances in this case that could warrant the court to order for the sentences to run consecutively. I agree with the Learned Counsel that the order was punitive.

The sentence was clearly excessive and harsh. I will allow the Appellant's appeal against sentence by removing the lower court's orders and directing that each of the sentences should run concurrently with each other.

Orders accordingly.

Dated and delivered at Nakuru this 11th day of March, 2003.

**JESSIE LESIIT
JUDGE**