

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI
CRIMINAL CASE NO 87 OF 2002

HAMISI MZARIAPPLICANT

VERSUS

REPUBLIC.....RESPONDENT

R U L I N G

The applicant has applied for consolidation of Criminal cases Nos. 2675 of 2001 and 2560 of 2001. The application is opposed by the state.

There is an affidavit in support of the application. I have read the same. I called for and obtained the lower court records. I have perused the same.

In criminal case no. 2580 of 2001 there are two accused persons; the accused and another. The charge has three counts, the last two relate to the applicant's co-accused. He has not applied for nay consolidation. In criminal case no. 2675 of 2001 the accused is alone. One Mr John Wachira is named among seven other witnesses to be called. In criminal case no. 2860 of 2001 the witness named is one Mr. Mburu among ten others to be called.

It is true that the complainant bank is the same.

However he particulars relate to two different branches and the amounts involved are different.

In view of the foregoing the two cases are incompatible.

The Chief Magistrate has set out the said terms in respect of both cases. They do not appear to be oppressive in view of the alleged offences.

In any case where there are two accused like in criminal case no 2680 of 2001 bail terms have to remain the same for both.

This application must therefore fail. The same is dismissed.

Orders accordingly.

Dated and delivered at Nairobi this 19th day of February, 2002

A. MBOGHOLI MSAGHA
JUDGE