



**Karanja v Republic (Criminal Revision 79 of 2023)
[2024] KEHC 11671 (KLR) (3 October 2024) (Ruling)**

Neutral citation: [2024] KEHC 11671 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIBERA
CRIMINAL REVISION 79 OF 2023
DR KAVEDZA, J
OCTOBER 3, 2024**

BETWEEN

PETER RUCHUI KARANJA APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. The applicant, jointly with another not before this court, was charged and convicted on two counts of robbery with violence, contrary to Section 296(2) of the [Penal Code](#). He was also charged and convicted of possessing an imitation firearm with intent to commit a felony, contrary to Section 34(1) of the [Firearm Act](#), Cap 114, Laws of Kenya. The trial court sentenced the applicant to death for counts I and II, and to three years' imprisonment for count III. The applicant subsequently filed an appeal before this court in Nairobi Criminal Appeal No 64 of 2018.
2. The applicant's appeal against conviction and sentence partially succeeded. The conviction in counts I & II was substituted with a conviction on robbery contrary to section 296(1) of the [Penal Code](#). The death sentence for counts I and II was substituted with a term of twenty (20) years' imprisonment for each count. The sentence for count III was upheld. Additionally, the overall sentence was reduced by five (5) years, accounting for the period the applicant spent in remand custody.
3. He filed the present notice of motion seeking that his sentence to run concurrently from the date of his arrest being 22nd July 2013. The application is supported by an affidavit sworn by the applicant.
4. I have considered the application, the averments in support and the applicable law. For consideration is whether the sentence imposed should run concurrently or consecutively.
5. On whether the sentence imposed should run consecutively or concurrently, Section 14 of the [Criminal Procedure Code](#) (Cap 75) Laws of Kenya provides as follows:



- (1) Subject to subsection (3), when a person is convicted at one trial of two or more distinct offences, the court may sentence him, for those offences, to the several punishments prescribed therefore which the court is competent to impose; and those punishments when consisting of imprisonment shall commence the one after the expiration of the other in the order the court may direct, unless the court directs that the punishments shall run concurrently.
6. It is therefore lawful to pass consecutive sentences in the circumstances prescribed by section 14. In *Peter Mbugua Kabui v Republic* [2016] eKLR the Court of Appeal stated as follows:
- “As a general principle, the practice is that if an accused person commits a series of offences at the same time in a single act/transaction a concurrent sentence should be given. However, if separate and distinct offences are committed in different criminal transactions, even though the counts may be in one charge sheet and one trial, it is not illegal to mete out a consecutive term of imprisonment.
7. I have also considered the *Sentencing Policy Guidelines* which contain specific provisions on whether a court should impose consecutive or concurrent sentences. The Guidelines provide as follows:
- 7.13 Where the offences emanate from a single transaction, the sentences should run concurrently. However, where the offences are committed in the course of multiple transactions and where there are multiple victims, the sentence should run consecutively.
- 7.14 The discretion to impose concurrent or consecutive sentences lies in the court.
8. The Court of Appeal has defined the phrase ‘same transaction rule’ in the case of *Republic v Saidi Nsabuga s/o Juma & another* [1941] EACA and revisited it in *Nathan v Republic* [1965] EA 777 where the court stated as follows: -
- “If a series of acts are so connected together by proximity of time, criminality or criminal intent, continuity of action and purpose, or by relation of cause and effect as to constitute one transaction, then the offences constituted by these series of acts are committed in the course of the same transaction.”
9. In the instant case, the court did not indicate whether the sentence was to run concurrently or cumulatively. The charges in counts I, II, and III indicate that the offences therein were committed in a transaction involving several complainants. The said offences were committed with the intention to rob the complainants which acts were connected by the proximity of time, criminal intent, by the relation of cause and effect, constituting the same transaction. Consequently, the sentence imposed ought to run concurrently.
10. The applicant also prayed that the sentence imposed ought to commence from the date of his arrest. However, the High court in its decision delivered on 28th September 2023, clearly indicated that the five (5) years spent in remand custody will be considered during computation of the sentence.
11. In the circumstances I hereby re-affirm the decision of this Court and order that the sentence imposed in Counts I, II and III shall run concurrently. The sentence shall be reduced by five (5) years which time the applicant spent in remand custody.

Orders accordingly.

RULING DATED AND DELIVERED VIRTUALLY THIS 3RD OCTOBER 2024

D. KAVEDZA



JUDGE

In the presence of:

Applicant Present

Maroro for the Respondent

Achode Court Assistant

