

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CRIMINAL DIVISION

CR. REVISION NO.1209 OF 2018

LEONARD MUSEMBI MUTISYA.....APPLICANT

VERSUS

REPUBLIC.....RESPONDENT

RULING

The Applicant, Leonard Musembi Mutisya was convicted by various courts for the offences of **obtaining money by false pretences** contrary to **Section 313** of the **Penal Code** and **stealing** contrary to **Section 268(1)** of the **Penal Code**. In **Nairobi Chief Magistrate's Court Criminal Case No.1751 of 2010**, he was sentenced to serve one (1) year imprisonment on 27th April 2018. In **Criminal Case No.955 of 2013**, he was sentenced to serve six (6) months imprisonment on 27th July 2018. In **Criminal Case No.1773 of 2013**, he was sentenced to serve two (2) years imprisonment on 13th November 2018. In addition, the Applicant told the court that he had been in remand custody since June 2013. He asked the court to take this period in consideration when determining his sentence. In essence, the Applicant was pleading with the court to have the sentences that were meted on him order to run concurrently instead of consecutively. Ms. Akunja for the State did not oppose the application. She was of the view that the sentences should be consolidated and thereafter the court orders the same to run concurrently instead of consecutively.

This court has carefully considered the Applicant's application. The Applicant was sentenced by various courts to serve various terms of imprisonment. It was clear to this court that the resultant custodial sentences have occasioned injustice to the Applicant. Since the prosecution is not opposed to the application, this court consolidates the sentences imposed on the Applicant and orders that the Applicant serves a sentence of two (2) years imprisonment with effect from 23rd November 2018. This custodial sentence shall apply to **Criminal Case No.1751 of 2010, Criminal Case No.955 of 2013** and **Criminal Case No.1773 of 201**. It is so ordered.

DATED AT NAIROBI THIS 5TH DAY OF NOVEMBER 2019

L. KIMARU

JUDGE