

**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**  
**AT KIAMBU**

**MISC. CRIMINAL CASE E077 OF 2025**

**TIRUS KARANJA NJENGA.....**  
**.....APPLICANT**

**AND**

**REPUBLIC.....RESPONDEN**  
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**RULING**

1. The Notice of Motion is dated 22<sup>nd</sup> July, 2025 and is made by the Applicant seeking for the following orders;

- (i) **THAT** the order of the Chief Magistrates Court dated 20<sup>th</sup> June, 2025 granting separation of the trial be set aside or varied.
- (ii) **THAT** the matter **KIAMBU MCCR E1073 of 2025** be consolidated and heard jointly with **KIAMBU MCCR E1074 of 2025** and **KIAMBU MCCR E1077 of 2025**.

**(iii) SPENT**

2. The Applicant relied on the supporting affidavit and the grounds on the face of the application. In all the three (3) cases he had been charged with the offence of Obtaining Money By

False Pretense contrary to Section 313 of the Penal Code; the particulars of the offences are that on specified dates at Kikinga Annex in Kiambu East Sub-County within Kiambu County with others not before the Court with intent to defraud obtained specified sums of monies from **VERONICAH WANGECHI CHEGE** and **BILHA MUGURE NGANGA** by falsely pretending that he was in a position to process and secure jobs for them in the Republic of Ireland, the fact he knew was false.

3. Counsel for the Applicant sought the consolidation of the three (3) cases and submitted that the consolidation was necessitated because of the issues in the separated matters were interrelated and arise from the same transaction and facts. The witnesses and documents to be relied on at the trial were the same; The incident in the three (3) cases happened at the same place and that the only differences were the dates of commission of the offences;
4. He further submitted that the separation of the cases will occasion prejudice, unnecessary duplication of proceedings and increased costs; The Applicant also stood to suffer substantial injustice including inconsistent verdicts and unnecessary

repetition of evidence. The essence of consolidation was for efficiency, fair and impartial delivery of justice as it would fast track the cases.

5. The application for consolidation of the three (3) criminal cases was not opposed by the Respondent.

### **ISSUES FOR DETERMINATION**

6. After having heard the oral submissions of Learned Counsel for the Applicant and the State this Court has framed only one issue for determination which is whether the application for consolidation of the **KIAMBU MCCR E1073, E1074 and E1077 of 2025** has merit,

### **ANALYSIS**

7. The applicable law is found at Section 135 (1) of the Criminal Procedure Code (Cap 75) Laws of Kenya and it reads as follows: -

***“(1) Any offences, whether felonies or misdemeanors, may be charged together in the same charge or information, if the offences charged are founded on the same facts, or form or are part of a series of offences of the same or a similar character.”***

8. Under the said provision. consolidation may be ordered where the offences charged are similar or related or are of the same character or arose out of the same act or related or connected acts, transactions, series of events or acts or transactions constituting parts of a common scheme or plan, or where much of the evidence to be produced is the same and will be a reproduction of the same in each trial.
9. In essence, consolidation is permitted if the cases are founded on similar facts or form part of a series of offences, where the offences are of same character and have similar witnesses and to facilitate the efficient and expeditious disposal of disputes and to provide a framework for a fair and impartial dispensation of justice to the parties. The rider is provided that the joint trial will not prejudice the rights of the accused.
10. Having considered the offences and the particulars of two of the cases that is **KIAMBU MCCR E1073 of 2025** and **MCCR E1074 of 2025** this Court has noted that in both cases the Applicant was charged with the same offence of Obtaining by False Pretense, the Complainant **VERONICAH WANGECHI CHEGE** is the same, the offence is stated to have been

committed within the same premises and the witnesses are said to be the same. As for **KIAMBU MCCR E1077 of 2025** the complainant is different namely **BILHA MUGURE NGANGA**, the dates when the offence was committed is different from the other two (2) cases and lastly the witnesses are also different. The only common thread in all three cases are the premises within which the offences were committed.

11. None of the Counsels have alluded to the likelihood of prejudice to be suffered by the Applicant and the Complainant, therefore there being no evidence of prejudice that may be occasioned to any of the parties this Court finds that this is a suitable case for it to exercise its discretion and to allow for the consolidation of the two (2) aforementioned cases that will expedite the hearings thereof.

### **FINDINGS AND DETERMINATIONS**

12. For the foregoing reasons, this Court makes the following findings and determinations;
  - (i) The application is found to be partially with merit and it is hereby partially allowed.

- (ii) The order of the Senior Principal Magistrates Court dated 20<sup>th</sup> June, 2025 granting separation of the trials be and is hereby set aside.
- (iii) The **KIAMBU MCCR NO E1073 OF 2025 REPUBLIC V TIRUS KARANJA NJENGA** be and is hereby consolidated with **KIAMBU MCCR NO.E1074 OF 2025 REPUBLIC V TIRUS KARANJA NJENGA** The accused shall take fresh plea and fresh information be prepared by the ODPP.
- (iv) Mention before the Chief Magistrates Court for re-allocation.
- (v) The consolidation of **KIAMBU MCCR NO.E1077 OF 2025** with the aforementioned cases is hereby disallowed. The file to be remitted back to the SPMs Court for hearing and determination  
Orders Accordingly.

**SIGNED DATED AND DELIVERED VIA TEAMS AT  
KIAMBUTHIS 5TH DAY OF DECEMBER, 2025.**

**A.MSHILA  
JUDGE**

**In the presence of;**

Sanja - Court Assistant

Munene - for the Applicant

Imran - for the Respondent

Applicant - Absent - out on bond

ORIGINAL