

4. The applicant now seeks a review of the sentence under section 333(2) of the Criminal Procedure Code, urging that the period he has spent in custody since the date of his arrest in 2021 be taken into account. He also prays that two sentences run concurrently.
5. The application is further supported by the Supporting Affidavit sworn by the applicant who reiterated the grounds set out in the appeal.
6. The Respondent opposed the application. They submitted that the two matters are distinct, arising from differently and falls under different territorial jurisdiction. One falls under the jurisdiction of the Kajiado High Court and the other falls under Machakos High Court. It was further submitted that this court lacks jurisdiction to hear the application since the applicant's appeal has already been heard and determined by the court of concurrent jurisdiction. They urged the court to dismiss the application.
7. From the record, the applicant was first convicted in Kithimani Criminal Case No. 33 of 2020 on 19th April 2022, and subsequently convicted in Ngong Criminal Case No. E068 of 2021 on 21st April 2023. He now seeks this court's intervention to have the sentences run concurrently or, in the alternative, to have the time spent in custody factored in, or to be considered for a non-custodial sentence.
8. Hence the issue for determination is whether the court can order the two sentences to run concurrently.

9. In the case of **Peter Mbugua Kabi v Republic (2016 eKLR) 2016 (KECA) 713 KLR** the Court of Appeal held that;

“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 and concurrent sentence should be given. However, if separate and distinct offences are committed in different criminal transactions, even though the courts may be in one charge sheet and one trial, it is not illegal to meet a consecutive term of imprisonment”

10. In this instance the applicant was charged with two distinct offences before two different courts. He was convicted on separate dates and sentenced independently by two courts of competent jurisdiction. Guided by the Court of Appeal’s decision in **Peter Mbugua Kabi v Republic (Supra)** this court lacks the jurisdiction to order that the sentences to run concurrently. Each conviction stands on its own, and the sentences imposed are lawful.

11. Consequently, the application herein is devoid merit and is hereby dismissed.

File closed.

Dated, signed and delivered at Machakos this 16th day of March, 2026

RHODA RUTTO

JUDGE

In the presence of;

.....Applicant

.....Respondent

Selina Court Assistant

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