



**Kalilo v Republic (Criminal Miscellaneous Application
E088 of 2025) [2025] KEHC 11234 (KLR) (30 July 2025) (Ruling)**

Neutral citation: [2025] KEHC 11234 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CRIMINAL MISCELLANEOUS APPLICATION E088 OF 2025**

A MABEYA, J

JULY 30, 2025

BETWEEN

JOHN CHAKA KALILO APPLICANT

AND

REPUBLIC RESPONDENT

RULING

1. By a Motion on Notice dated 5/5/2025, JOHN CHAKA KALILO ('the applicant') has sought that his sentences be consolidated and be made to run concurrently.
2. In his affidavit in support, he disclosed that he had been sentenced to serve 2 years' imprisonment for the offence of obtaining by false pretences in Ksm CMCR Case No. 719 of 2018. That in Ksm CMCR Case No. E140 of 2021, he was also convicted and sentenced to serve 2 years and 7 months for a similar offence of obtaining by false pretences. That the splitting of the offences prejudiced him in that it made him serve long sentences. That the offences arose from the same intention that took place on diverse dates from April 2017 and February, 2018.
3. Ms. Kagali for the State opposed the application. She submitted that the trial court observed the provisions of section 14 of the *Criminal Procedure Code*. That the said sentences should not be consolidated as they arose from two separate trials and complaints as well as circumstances.
4. I have considered the record. I have also considered the opposing contestations. Section 14 of the *Criminal Procedure Code* provides: -

“(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 therefor 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.

- (2) In the case of consecutive sentences, it shall not be necessary for the court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to impose on conviction of a single offence, to send the offender for trial before a higher court.
- (3) Except in cases to which section 7(1) applies, nothing in this section shall authorize a subordinate court to pass, on any person at one trial, consecutive sentences— (a) of imprisonment which amount in the aggregate to more than fourteen years, or twice the amount of imprisonment which the court, in the exercise of its ordinary jurisdiction, is competent to impose, whichever is the less; or (b) of fines which amount in the aggregate to more than twice the amount which the court is so competent to impose.
- (4) For the purposes of appeal, the aggregate of consecutive sentences imposed under this section in case of convictions for several offences at one trial shall be deemed to be a single sentence.”

5. I have called for the two original trial courts’ files. I note that in Ksm CMCR Case No. 719 of 2018, the applicant was charged on 11/10/2018 with the offence of obtaining money by false pretences contrary to section 313 of the [Penal Code](#). The charge read: -

“JOHN CHAKA KALILO alias TOM. On diverse dates between 9th June, 2017 to 30th September, 2017 at KCB Bank Kisumu Central Sub-county within Kisumu County, with intent to defraud, obtained from ISAAC KAMAU Kshs.2,680,000/- and DISMAS ONGIRA OGORO Kshs.2,970,000/- a total sum of Kshs.5.650,000/- falsely pretending that you were in a position to sell them 9 cages of fish, a fact you knew to be false.”

6. As for Ksm CMCR Case No. E140 of 2021, the applicant was arraigned in Court on 1/3/2021 and charged with the offence of obtaining money by false pretences contrary to section 313 of the [Penal Code](#). It wa alleged as follows: -

“CHAKA JOHN KALILO: On diverse dates between 21st June, 2017 and 17th July, 2017 at KCB Bank Ltd Kisumu Branch of Kisumu Central Sub-county within Kisumu County, with intent to defraud obtained a sum of Kshs.1,180,000/- from KEFA OTIENO MUKODO by falsely pretending that you were in a position to sell him two fish cases at Usigu Siaya, a fact you knew to be false.”

7. It is clear from the foregoing that the two cases were in respect of different incidents. The transactions were independent of each other. It is clear that the applicant is a repeat offender and was lucky to escape with such lenient sentences. The sentences cannot be consolidated. Neither can they run concurrently but consecutively.
8. In the circumstances, the application is without merit and is hereby dismissed.

It is so ordered.

DATED and DELIVERED at Kisumu this 30th day of July, 2025.

A. MABEYA, FCI Arb

JUDGE

