**Saina v Republic**

[1974] 1 EA 83 (HCK)

**Division:** High Court of Kenya at Nairobi

**Date of judgment:** 7 June 1973

**Case Number:** 1120/1972 (31/74)

**Before:** Sir James Wicks CJ and Trevelyan J

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*[1] Criminal Practice and Procedure – Charge – Duplicity – Several offences in same count – Incurable*

*illegality – Criminal Procedure Code, s.* 135 (*K.*)*.*

**Editor’s Summary**

The appellant was charged in a single count with the offences of shopbreaking, theft and handling stolen

property. The magistrate found he had committed all the offences and then sentenced him for handling.

**Held –**

(i) each offence must be set out in a separate count;

( ii) failure so to do is an incurable illegality (*Cherere Gukuli v. R.* (4) followed).

Appeal allowed.

**Cases referred to Judgment:**

(1) *R. v. Charles Awala* (1949), 23 K.L.R. 61.

(2) *Ayodi Chumba v. R.* (1950), 24 K.L.R. 93.

(3) *R. v. Boyle* (1954), 38 Cr. App. R. 111; [1954] 2 All E.R. 721.

(4) *Cherere Gukuli v. R.* (1955), 22 E.A.C.A. 478.

(5) *Ratilal v. Republic*, [1971] E.A. 575.

(6) *Pita v. Republic*, E.A.C.A. Cr. A. 66 of 1972 (unreported).