

IN THE COURT OF APPEAL OF TANZANIA

AT ARUSHA

(CORAM: RAMADHANI, J.A., MNZAVAS, J.A., And MFALILA, J.A.)

CRIMINAL APPEAL NO. 95 OF 1994

BETWEEN

1. CRISPIN MARTINE | APPELLANTS
2. AVELIN JOSEPH |

AND

THE REPUBLIC. RESPONDENT

(Appeal from the decision of the
High Court of Tanzania at Arusha)

(Mushi, J.)

dated the 26th day of October, 1992

in

Criminal Appeal No. 109 of 1992

SUMMARY REJECTION

MNZAVAS, J.A.:

The appellants, Crispin Martine and Avelin Joseph, were jointly charged with and convicted of the offence of robbery c/ss 285 and 286 of the Penal Code and sentenced to 15 years imprisonment by the Rombo District Court. Dissatisfied with the finding of the trial court they appealed to the High Court. The High Court dismissed the appeal on the ground that "the offence was committed in broad day light and therefore there could be no question of mistaken identification of the appellants as the bandits".

Undaunted by the High Court decision they have now appealed to this Court.

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Our reading of the evidence shows that the offence was committed during the day time and the appellants were well known to the witness PW.3, the victim of the robbery, before the incident.

That being the evidence the question of mistaken identification of the appellants as the robbers was rightly excluded by the lower courts. The conviction was fully supported by the evidence. As for the sentence of 15 years imprisonment it is the mandatory minimum for the offence of robbery.

In the event we are satisfied, and so certify, that this appeal has been lodged without any sufficient ground of complaint and we accordingly order under Section 4(4) of the Appellate Jurisdiction Act 1979 as amended by Act No. 16/1984 and Act No. 17/1993 that it be summarily rejected.

DATED at DAR ES SALAAM this 11th day of July, 1996.

A.S.L. RAMADHANI
JUSTICE OF APPEAL

N.S. MNZAVAS
JUSTICE OF APPEAL

L.M. MFALILA
JUSTICE OF APPEAL

I certify that this is a true copy of the original.

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(M.S. SHANGALI)
DEPUTY REGISTRAR