

IN THE COURT APPEAL OF TANZANIA

AT TANGA

(CORAM: LUANDA, J.A., JUMA, J.A. And MUGASHA, J.A.)

CRIMINAL APPEAL NO. 105 OF 2015

MATHIAS BARUA APPLICANT

VERSUS

THE REPUBLIC RESPONDENT

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

(Msuya, J.)

Dated the 26th day of June, 2014

In

Criminal Appeal No. 16 of 2013

JUDGMENT OF THE COURT

12th & 14th August, 2015

LUANDA, J.A.:

We wish to state from the outset that this appeal has no merit whatsoever. The appellant was charged in the District Court of Korogwe with Unnatural Offence c/s 154(1) (b) of the Penal Code. The particulars of the offence were that on 8th day of March, 2009 at about 02.10 hrs at Mgobe Village within Korogwe District in Tanga Region the appellant did have carnal knowledge of an animal to wit a cow.

When the appellant was called on to plead to the charge, he denied the charge. A plea of not guilty was entered. But when the appellant was given opportunity to cross-examine Zuberi Iddi (PW1) after he had testified, the appellant said he had no question and went further to inform the trial District Court that he was confessing to have committed the offence and prayed for forgiveness. On hearing that, the Charge Sheet was caused to be read over again and explained to the appellant. The appellant was called upon to plead thereto. The appellant stated the following, we reproduce:-

*Plea: It is true I had carnal knowledge of animal on
8/3/2009 during night time.*

The facts were adduced. When he was asked as to whether they were correct, he confirmed that they were correct. He was convicted as charged. Thereafter he was asked whether he had anything to say before the Court imposed the sentence. He prayed for leniency. The District Court sentenced him to 30 years imprisonment. The appellant appealed to the High Court. His appeal was dismissed hence this second appeal.

In this appeal, the appellant has raised two grounds in his memorandum of appeal which as correctly pointed out by Ms Maria Mtengule, learned State Attorney for the respondent/Republic are irrelevant. The grounds raised by the appellant can be paraphrased thus:-

*(1) The prosecution ought to have tendered the
cow to support the plea of the appellant to be
unequivocal*

*(2) The plea of guilty of the appellant was not
supported by a PF 3 of a Veterinary Officer.*

We wish to point out that once it is shown on record that the accused person on his own free will pleaded guilty to the offence unequivocally then that is enough to support the charge with which the accused is charged. Tendering of exhibit be it an object or document is not a legal requirement though is desirable to do so, to ground conviction.

In this case, since the appellant on his own volition pleaded guilty to the offence and the trial District Court properly followed the procedure of taking the plea of guilty of an accused person as correctly observed by the

High Court (See **Khalid Athuman V R.** [2006] TLR 79 and since the facts adduced established the ingredients of the offence, the conviction was properly entered.

The appeal is devoid of merits. The sentence of 30 years imprisonment imposed is the bare minimum. The appeal is dismissed in its entirety.

Order accordingly.

DATED at **TANGA** this 13th day of August, 2015.



B. M. LUANDA
JUSTICE OF APPEAL

I. H. JUMA
JUSTICE OF APPEAL

S. E. A. MUGASHA
JUSTICE OF APPEAL

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

A handwritten signature in black ink, appearing to read "Z. A. Maruma".

Z. A. MARUMA
DEPUTY REGISTRAR
COURT OF APPEAL