

**IN THE COURT OF APPEAL OF TANZANIA
AT MBEYA**

(CORAM: MMILLA, J.A., MUGASHA, J.A., And MWAMBEGELE, J.A.)

CRIMINAL APPEAL NO. 92 OF 2015

1. DEUS SAMWEL

2. COSTANTINO SUNGURA APPELLANTS

VERSUS

THE DIRECTOR OF PUBLIC PROSECUTIONS RESPONDENT

(Appeal from the judgment of the High Court of Tanzania, at Sumbawanga.)

(Sambo, J.)

dated the 17th day of November, 2015

in

Criminal Appeal No. 5 of 2015

RULING OF THE COURT

11th December, 2018

MMILLA, J.A.:

When this appeal was called on for hearing today, both appellants were absent and unserved. On the other hand, Mr. Hebel Kihaka, assisted by Ms Rosemary Mgenyi, both learned State Attorneys, appeared for the respondent/Republic.

On taking the floor, Mr. Kihaka informed the Court that on the basis of the letter Reference No. 110/RUK/2/VII/118 dated 26th June, 2018 from the Prison

Officer, Sumbawanga, the appellants are not in prison because they were released on orders of the High Court, Sumbawanga Registry. He added that because they cannot be traced, he was praying for the appeal to be struck out so that in case they reappear they can still re-institute their appeal.

On our part, in view of the letter from the Prison referred to us, and for reasons advanced by Mr. Kihaka, we accede to the prayer for this appeal to be struck out. In the circumstances, we strike out the appeal under Rule 4 (2) (a) of the Tanzania Court of Appeal Rules, 2009. However the appellants will be at liberty to re-institute it in case they re-appear.

Order accordingly.

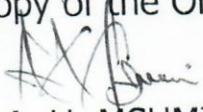
DATED at **MBEYA** this 11th day of December, 2018.

B. M. MMILLA
JUSTICE OF APPEAL

S. E. A. MUGASHA
JUSTICE OF APPEAL

J. C. M. MWAMBEGELE
JUSTICE OF APPEAL

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


A. H. MSUMI
DEPUTY REGISTRAR
COURT OF APPEAL