

IN THE COURT OF APPEAL OF TANZANIA

AT DODOMA

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

CRIMINAL APPEAL NO. 486 OF 2017

- 1. WYCLIFE SALUM @ NYENDO ----- 1st APPELLANT**
2. SHABAN KEFA @ NJULUMUI ----- 2nd APPELLANT
3. JOHN MANGWELA ----- 3rd APPELLANT

VERSUS

THE REPUBLIC ----- RESPONDENT

**(Appeal from the judgment of the High Court of Tanzania
Dodoma Registry)
(Mansoor, J.)**

dated the 9th day of October, 2017

in

Criminal Sessions Case No. 39 of 2012

JUDGMENT OF THE COURT

13th & 21st August, 2019

MWANGESI, J.A.:

Wyclife s/o Salum @ Nyendo, Shaban s/o Kefa @ Njilumui and John s/o Mangwela, who are the appellants herein, were indicted for trial in the High Court of Tanzania at Dodoma Registry, with the offence of murder contrary to the provisions of section 196 and 197 of the Penal Code Cap. 16 of the Revised Edition of 2002 (**the Code**). It was the case for the prosecution that, on the 21st day of November, 2011 at about 11:00 hrs. at Ihumwa village within the Municipality (by then) District and Region of Dodoma, the trio, jointly and together murdered one Philimon s/o

Chimwagamwaga. When the charge was read over to the appellants, they all protested their innocence.

Subsequent to the trial which was conducted with the aid of assessors, the learned trial Judge, after considering the evidence of eight witnesses who were paraded by the prosecution, which included Samwel Chimwagamwaga (PW1), Suzana Chimwagamwaga (PW2), Amos Meshack Sango (PW3), No. F. 7377 PC Halikuyenda (PW4), Leticia Midelo (PW5), Hamisi Makala (PW6), No. E. 2115 Corporal Domistocles (PW7) and, Assistant Inspector Zacharia (PW8), which was supplemented by three exhibits, that is, a post mortem examination report, a sketch plan of the scene of crime and an extra-judicial statement, as well as the defence evidence from each appellant, who did not call any additional witness, was convinced beyond doubt that, the case against the appellants had been established to the hilt. As a result, each of them was sentenced to the mandatory penalty of death by hanging. All appellants felt aggrieved by the decision of the trial Court and hence, lodged an appeal to assail it in this Court.

Before engaging ourselves in considering the merits or demerits of the appeal, we think it is apposite, albeit in brief, to give the facts leading to the

impugned decision as could be discerned from the evidence on record. The facts were introduced by the testimony of PW1, who told the Court that the deceased in that case was his father with whom they resided in the same village of Ihumwa, involving themselves in farming and pastoralism activities. The witness informed the Court further that on the 21st November, 2011 he did not go with his late father to graze their herd of cattle in the bush as it was the practice, because he went out for some other business. He assigned PW2 who happened to be his wife, to do the needful for her father in law, before he left for the bush with the herd of cattle. He returned home at about 18:00 hrs., only to find that his father and the herd of cattle were nowhere to be seen. Such a situation shocked him because it was unusual. After his initial efforts to trace for the whereabouts of his father and the herd of cattle had proved barren, he reported the matter to the village authority, which summoned the entire members of the village to assist in looking for both PW1's missing father and the herd of cattle. On the said night they were not successful.

PW1 narrated further that on the following day, which was the 22nd November, 2011 at about 10:00 hrs., they got information through a mobile phone that some herd of cattle had been intercepted at Manchari area. They

were therefore asked to go and check if they were their lost ones. As by then they were not far away from the named village, they rushed to the same. On arrival, they found all their lost herd of cattle which were 59 in number, except one. He managed to identify them through their marks in that, 46 out of 58 had their mark 'C' cut thrice on the left ear of each, and one 'C' cut on the right ear. The other remaining 12 herd of cattle which belonged to his neighbour one Keneth Chinolo, each had a mark 'C' cut twice on the right ear, and one 'C' mark cut on the left ear. At the said village they were further told that, there were three young men, who had been driving those herd of cattle who by then had been kept in custody at the remand of the Ward. When they inquired the whereabouts of his father, who had been with the livestock in the bush, it was unknown.

The herd of cattle was thereafter driven by a Police Officer and some militia men to Chamwino Police Station, where after remaining for some time they were eventually handed over to them. In the company of his colleagues who had been assisting him in the search, they drove them back home.

The tale by Amos Meshack Songo (PW3), was that in the year 2011, he was the Ward Executive Officer (WEO) of Manchari Ward. On the 22nd November, 2011 during day time, he found three young men driving herd of

cattle towards Kongwa District using a route which was not permitted. Upon inquiring from them as to where they were coming from, they told him that they were coming from Makoja village, heading for Masandee in Kongwa District. Since he did not buy their story, he went to the office of the Ward where he assigned Police Officers (PW4 and his colleague No. F 4983 Corporal Clemence), who were attending a Ward meeting, to go and make some inquiry from the young men. On seeing the Police Officers in the car, the three young men attempted to flee away to no avail. They were all apprehended and locked up in the Ward remand.

After a while, PW1 arrived at the scene and managed to identify the herd of cattle as the ones which had gone missing with his father, who was grazing them in the bush. Both the three young men and the herd of cattle were thereafter taken to the Police Station of Chamwino for further investigation. Later, he was informed that the person who had been grazing the herd of cattle which they arrested, was found dead in the bush.

On his part, PW4 told the Court that on the 22nd November, 2011 while in the company of No. F4983 Corporal Clemence (by then a constable), they were attending a Ward meeting in the office of Manchari Ward. PW3 then arrived and informed them that, there were three young men driving herd

of cattle along the old Mpwapwa road, which he suspected might be thieves. The two of them were thus tasked to go and interview them. They entered into the motor vehicle and drove it towards where they had been directed by PW3. At the same time, PW3 followed them from behind on a motor cycle. The three young men on seeing the motor vehicle with Police Officers in uniform, they took to their feet. Upon noticing that, PW3 who had been behind them, shouted for help from other villagers and they apprehended all the three young men.

After arresting the three young men, some people who participated in the arrest told him that there were people from Ihumwa village, who had been looking for their lost herd of cattle. One of them gave him a mobile number which he used to get PW1. A short moment later, PW1 and his colleagues arrived and managed to identify their stolen herd of cattle through their marks. PW1 further told him that, his father who had been with the herd of cattle in the bush, was also missing. He (PW4), then moved with the three suspects and the herd of cattle to Chamwino Police Station, where upon interrogating the appellants, they told him that they were ready to go and show them where they had left the herdsman in the bush.

The willingness by the appellants to go and show where they had left the person who was grazing the herd of cattle in the bush, made him to communicate with the Central Police Station Dodoma, from where a motor vehicle with Police Officers was sent to join them. They met at Ihumwa center from where being led by the appellants, proceeded in the bush. After driving for some time they were asked by the appellants to stop. From there they led them on foot to a place where they located the dead body of the deceased near a big baobab tree. Thereafter, the appellants were associated with the death of the deceased and as a result, they were charged with the offence of murder.

On their part, all the appellants conceded to be residents of Ihumwa village where the deceased also resided. They however strongly resisted to have been involved in the incident leading to his death. Each of them alleged to have been arrested by policemen within the vicinity of his home area for reasons which were not disclosed to them. While the first appellant alleged to have been arrested on the 21st November, 2011 at about 14:00 hrs., the second appellant was arrested on the 22nd November, 2011 at about 18:00 hrs. On his part, the third appellant claimed to have been arrested on the 22nd November, 2011 at about 16:00 hrs. Subsequent to their respective

arrests, each appellant stated to have been put in a motor vehicle wherein, there were other people handcuffed, whom he did not know and taken to Chamwino Police Station. At the same time, each of them claimed to have been bitterly tortured being forced to admit having been behind the death of the deceased, a thing which they did not because they knew nothing about such an incident.

As earlier stated above, at the end of the trial, all appellants were held culpable to the charged offence of murder and sentenced accordingly in a judgment that was handed down on the 09th October, 2017. On the 7th May, 2018 the appellants lodged a joint memorandum of appeal containing five grounds of appeal to assail the finding of the trial High Court. Later on the 5th August, 2019 another set of memorandum of appeal was lodged in respect of the same matter by RT. Reverend Dr. Kuwayawaya Stephen Kuwayawaya, learned counsel, after he had been assigned to represent the appellant in this appeal.

When the appeal was called on for hearing before us, Dr. Kuwayawaya Stephen Kuwayawaya, entered appearance to represent the appellants whereas, Ms. Catherine Gwaltu, learned Senior State Attorney, teamed up

with Ms. Karen Mrango, learned State Attorney, to defend the respondent/Republic.

On taking the floor to address us on the appeal, the learned counsel for the appellants abandoned the first set of the memorandum of appeal which was lodged by the appellants, and proceeded to address us on the second set which was lodged by him bearing the following wording: -

- 1. That, the trial Court erred in law and in fact, in convicting the appellants without proof of their guilt on a required standard, that is, beyond all reasonable doubts.*
- 2. That, the trial Court erred in law and in fact, in convicting the appellants based on weak evidence and contradictory evidence.*
- 3. That, the trial Court erred in law and in fact in failing to properly evaluate the evidence tendered in Court.*

In amplifying the above three grounds of appeal, Dr. Kuwayawaya, argued them generally. He argued that in the instant matter, there was no direct evidence to implicate all appellants to the charged offence of murder

and that, their conviction was basically founded on circumstantial evidence. The learned counsel reminded us on the principle governing circumstantial evidence, that to form the basis of conviction to the appellants, its chain ought to irresistibly lead to no conclusion other than that of their guilt, a requirement which in his view, was not met by the evidence which was tendered by the prosecution witnesses.

Dr. Kuwayawaya, went on to submit that the appellants in this appeal, resisted to have been found with the herd of cattle allegedly arrested at Manchari village, and there was no evidence to sufficiently link them with the same. Either the testimonies led by PW3 and PW4 to the effect that the appellants were the ones who were driving the alleged herd of cattle, was problematic. While PW4 claimed that after the arrest of the appellants on the 22nd November, 2011, he remained with them at Chamwino Police Station interrogating them from 19:00 hrs. to 02:00 hrs. as reflected at page 4 of the Record of Appeal, on his part PW7, testified that on the said date, he interrogated the appellants at the Central Police Station from 23:00 hrs. onwards. Dr. Kuwayawaya, wondered as to how the same appellants would have been at two different places at the same time.

According to the learned counsel, it would appear that there were two sets of suspects who were arrested in respect of the alleged missing herd of cattle. There were those dealt with by PW4 and the other one, dealt with by PW7. Under the circumstances, it could not be stated with certainty that, the appellants were the ones who were arrested with the herd of cattle alleged to have been being grazed in the bush by the deceased.

The learned counsel pointed yet another contradiction in the testimonies of the prosecution witnesses, which was brought about by the testimonies of PW4 and PW8. While PW8 who was the Officer Commanding the Police Station of Chamwino (OCD), told the Court that he received the appellants at about 20:00 hrs. and shortly thereafter, ordered them to be sent to the Central Police Station of Dodoma which exercised jurisdiction over the area where the offence was alleged to have been committed, on the other hand PW4, testified that, the appellants remained at Chamwino Police Station for a long time, which he used to interrogate them. The same again meant that, there was a set of suspects who were rushed to the Central Police Station, while the other set remained at Chamwino Police Station, being interrogated by PW4.

Dr. Kuwayawaya, submitted further that the variance of the testimonies of the prosecution witnesses as pointed out above, would have to some extent been cleared if PC Clement, who was alleged to have been with PW4, could have been summoned by the prosecution to give his evidence, as he would have enlightened the Court as to when the appellants were taken to the Central Police Station. However, to his surprise this Police Officer, was not summoned to testify for no apparent reasons. The Court was invited to draw an adverse inference on the failure by the prosecution to summon this important witness to appear in Court and testify.

Lastly, the learned counsel faulted the decision of the trial High Court, for its failure to consider the defence of the appellants. It was argued that throughout the judgment of the trial Court, there was no consideration of the defence evidence at all. Basing on the foregoing shortfalls, Dr. Kuwayawaya urged us to find that the case against the appellants was not proved beyond reasonable doubt. He thus prayed that the appeal be allowed and the appellants be set at liberty.

In rebuttal to what was submitted by her learned friend, Ms. Gwaltu, prefaced her submission by stating her stance that she was resisting the appeal. Even though she was at one with Dr. Kuwayawaya that, the

conviction of the appellants based on circumstantial evidence, Ms. Gwaltu was firm that the said evidence satisfactorily established that the appellants were the ones who were arrested with the 58 herd of cattle. She argued that the testimonies of PW3 and PW4 left no doubt that, the appellants were the ones who were arrested at Manchari village, while driving 58 herd of cattle which were later positively identified by PW1 to be the ones which were being grazed by PW1's father whose dead body was later discovered in the bush.

The learned Senior State Attorney, argued further that the discovery of the dead body in the bush was made possible through the appellants, who led the policemen to where the same had been placed. The act of the appellants of being found with the lost herd of cattle, as well as showing the dead body of the person who had been grazing them in the bush, justified the invocation of the doctrine of recent possession by the learned trial Judge, in line with what was held in **Ally Bakari Vs Republic** [1992] TLR 10. We were therefore, implored to dismiss the contention put forward by the learned counsel for the appellants that, there was a question of mistaken identity.

With regard to the contradictions of the prosecution witnesses which was pointed out by her learned friend, Ms. Gwaltu was again in agreement with him that, there were indeed some contradictions of time noted in the testimonies of the prosecution witnesses. She however, hastened to add that the same were minor as they did not go to the root of the matter, as observed by the learned trial Judge in her judgment at page 238 of the record of appeal. She therefore asked us to dismiss such claim.

The reaction of the learned Senior Station Attorney, to the invitation which made by her learned friend to the Court, to draw an adverse inference to the failure by the prosecution to summon some key witnesses was that, the need to summon PC Clement who is the one demanded most by her learned friend, did not arise. This was so for the reason that the said police officer, was on the material date in the company of PW4. That being the case, his testimony would have been of no any added value as it would have been a mere duplication to what was already testified in Court by PW4.

And on the last complaint by the appellants that, their defence evidence was not considered, Ms. Gwaltu, argued that it was unfounded because the defence evidence, was passionately considered by the learned trial Judge in her judgment. Additionally, there was the defence of alibi,

which was raised on their behalf without following the proper procedure. Nonetheless, it was as well adequately traversed by the trial Judge, and found to be wanting of merit. To that end, the learned Senior State Attorney, asked us to dismiss the appeal in its entirety for want of merit.

In the light of the testimonies of PW1 and PW2, it is apparent that Philimon Chimwagamwaga, the deceased whose dead body was found in the bush, met his death while grazing herd of cattle and that those who caused his death, left with those animals. The issues which stand for our deliberation in the light of the memorandum of appeal and the submissions made by the learned counsel from either side are **one**, whether the herd of cattle which were being grazed by the deceased before meeting his death, were the ones which were found in the possession of the appellants. **Two**, whether the appellants were the ones who led to the discovery of the dead body of the deceased. **Three**, whether the evidence given by the appellants in their defence, was not considered by the learned trial Judge. And **Four**, whether the case against the appellants was sufficiently established. We propose to answer the issues seriatim starting with the first.

On the basis of the sufficient identification which was made by PW1 to the herd of cattle which were intercepted at Manchari village on the 22nd

November, 2011, we agree with the submission of the learned Senior State Attorney that, those herd of cattle were positively identified to be the ones which were being grazed in the bush by the deceased. We are satisfied that the witness sufficiently described their marks that, the first 46 herd of cattle belonging to him and his late father, each had three cuts of the letter 'c' on the left ear, and one cut of the same letter 'c' on the right ear. And that the remaining 12 herd of cattle which belonged to his neighbour Charles Kinolo, each had a cut of the letter 'c' twice on the right ear, and one cut of the same letter 'c' on the left ear. The only dispute which remained unanswered, was as to whether those animals were found in possession of the appellants.

While Dr. Kuwayawaya, strongly urged us to believe the version of his clients that they were not found in possession of the alleged herd of cattle, Ms. Gwaltu, on the other hand, argued that there was cogent evidence to establish that, the same were in possession of the appellants during their arrest. To substantiate his stance, the learned counsel, pointed out some contradictions contained in the testimonies of PW4, PW7, and PW8, in particular on the question of time in which the appellants remained at Chamwino Police Station for interrogation, and when they were taken to the Central Police Station Dodoma. Upon dispassionately going through the

testimonies of the named witnesses, we sustain the argument by Dr. Kuwayawaya, that there were indeed some contradictions as also conceded by the learned Senior State Attorney. The immediate question which we had to ask ourselves, is whether such contradictions were fatal. Before we answer this question, we think, it is pertinent to revisit our previous position in situations where there happened to be contradictions of witnesses.

In **Armand Guehi Vs Republic**, Criminal Appeal No. 242 of 2010 (unreported), we made a general observation in relation to contradictions arising in the course of witnesses giving evidence in court, when we stated that: -

"We would like to begin by expressing the general view that contradictions by any particular witness or among witnesses cannot be escaped or avoided in any particular case."

In the light of the circumstances stated in the case cited above, the Court in **Dickson Elia Nsamba Shapwata Vs Republic**, Criminal Appeal No. 92 of 2007 (unreported), deduced a principle which if applied carefully

and sincerely, can assist courts in evaluating contradictions, discrepancies or omissions made by witnesses in Court proceedings, when it stated that:

"In evaluating discrepancies, contradictions or omissions, it is undesirable for a Court to pick out sentences and consider them in isolation from the rest of the statements. The Court has to decide whether the discrepancies or contradictions are only minor or whether they go to the root of the matter."

Back to the appeal before us, it is our considered view that, the complained of contradictions which were noted in the testimonies of PW4, PW7 and PW8 which in essence were in respect of the time in which the appellants remained at the Police Station of Chamwino, and the time when they were taken to Dodoma Central Police Station, in our view, was not a fatal contradiction as it did not go to the root of the case which was facing the appellants. We thus sustain the contention by the learned Senior State Attorney, and answer the first issue in the affirmative that, the appellants were indeed the persons who were found in possession of

the herd of cattle which previously, were being grazed in the bush by the deceased before he met his death.

The second issue is whether the appellants led to the discovery of the dead body in the bush. While the learned counsel urged us to answer the issue in the negative, Ms. Gwaltu, on her part, invited us to answer the issue in the affirmative in view of the testimonies of PW4 and PW7. The relevant piece of evidence from PW4 to assist in answering the issue, is that found at page 43 of the Record of Appeal, which we take the liberty to reproduce it in *verbatim* that: -

"We went to the bush, the accused persons were directing us, they asked us to stop, it was dark at night, we were using a torch light. They directed us to the road. I asked Shabani to get down while hand cuffed, the other two remained in the car. Shabani directed us to where there was a big baobab tree. I started smelling it, it was a foul smell of a rotten body, we followed the smell. Shabani showed me to where they kept him. We saw the bush and in the middle of the bush, we saw the body of the late Mzee

Philimon. The body was swollen, his hands and legs were tied with a rope and in the mouth there was sulphate bag and the eyes were poked ---"

In further elaboration to his testimony when asked so to do at page 45 of the Record of Appeal, he was recorded to state that: -

"I beat them a little and after the beating they confessed. The beating caused them to confess. Shabani was the easiest one, he was confessing easily than the others ---"

On the part of PW7, the piece of his testimony which was relevant in the determination of this issue was that reflected at page 107 of the Record of Appeal, where he testified thus: -

"We reached the Ihumwa forest as directed by the accused persons. It was Shabani Njulumui, who directed to where the body was hidden. It was in the bush. We inspected the scene of crime. We took the body in the car. The hands and legs were tied up with

*a rope, and a sulphate bag was soaked in the mouth
of the deceased ---"*

Even though the elaboration of PW4 to his testimony as noted above, indicates that there was some force administered to the appellants by PW4 and his colleagues before they led them to where the body of the deceased was discovered, such act in our view, could not derogate the reality that the appellants were the ones who enabled the discovery of the dead body of the deceased in the bush. There was no way in which PW4 and PW7 could have managed to locate the said dead body during night, in a bush which was quite far away from their stations of work. With the foregoing finding, we answer the second issue in the affirmative that, the appellants led to the discovery of the dead body.

The finding made above, brings us to the subsequent question as to whether the appellants, could be associated with the death of the deceased. A scenario of some similarity to the present appeal, was found in the case of **Festo Mwanyangila Vs Republic**, Criminal Appeal No. 255 of 2012 (unreported), where the appellant had led to the discovery of a bicycle which had been in possession of the deceased before he was found dead. This Court in upholding the finding of the trial High Court held that, the conduct

by the appellant to lead to the discovery of the bicycle which was in possession of the deceased before he met his death, was corroborative incriminating evidence, which was correctly relied upon by the trial High Court in holding the appellant culpable to the charge of murder.

In yet another case of **Tumaine Daud Ikeru Vs Republic**, Criminal Appeal No. 155 of 2009 (unreported), the trial High Court convicted the appellant after he had led to the discovery of the dead body. On appeal, this Court upheld the decision of the trial Court by stating that: -

"The fact that the appellant led to the discovery of the body of the deceased, firmly grounds the conviction without a speck of doubt."

The foregoing position apart, as it was earlier held above, the appellants were also found in possession of the herd of cattle which were being grazed by the deceased in the bush. It was held in **Joseph Mkumbwa and Samson Mwakagenda Vs Republic**, Criminal Appeal No. 94 of 2007, cited in **Yunus Habibu Vs Republic**, Criminal Appeal No. 239 of 2017 (both unreported), that: -

"Where a person is found in possession of a property recently stolen or unlawfully obtained, he is presumed to have committed the offence connected with the person or place wherefrom the property was obtained. And for the doctrine to apply as a basis of conviction, it must be proved that first, that the property was found in the possession of the suspect. Second, that the property is positively proved to be the property of the complainant. Third, that the property is recently stolen from the complainant. And fourthly, that the stolen property constitutes the subject of the charge against the accused."

When the above factors are tested in the instant appeal, we find that they squarely fit in that the herd of cattle were found in the possession of the appellants, that those herd of cattle were positively identified by PW1, that hardly a day had elapsed from when the herd of cattle had been robbed, and lastly that, the person who had been grazing them was found murdered, which was the offence facing the appellants. Under the circumstances, undoubtedly the doctrine of recent possession fairly fits in their situation.

It will be recalled that at the commencement of hearing this appeal, Dr. Kuwayawaya, reminded us of the principle of circumstantial evidence. The principle as stated in **Simon Musoke Vs Republic** [1958] EA 715, and followed in a plethora of authorities that include, **Hassan Fadhili Vs Republic** [1994] TLR 89, **Shabani Abdalla Vs Republic**, Criminal Appeal No. 127 of 2003, **Mohamed Musatafa @ Rajab and Two Others Vs Republic**, Criminal Appeal No. 25 of 2017 and **Nkanda Jilala Vs Republic**, Criminal Appeal No. 348 of 2017 (all unreported), is that: -

"In a case depending exclusively upon circumstantial evidence, the Court must, before deciding upon a conviction, find that the inculpatory facts are incompatible with the innocence of the accused, and incapable of explanation upon any other reasonable hypothesis than that of guilt."

Upon painstakingly putting into test the principle stated above to the circumstantial evidence which was tendered by the prosecution witnesses against the appellants in this appeal, we are settled in our mind that, the said evidence left no any conclusion other than directly implicating the appellants to the charged offence of murder. We are therefore in agreement

with the finding that was reached upon by the learned trial Judge, of which we uphold.

The third issue is as to whether the defence evidence was not considered by the trial Judge in her judgment. What we could gather from the record of the trial court, is that in their defence all appellants claimed to have been arrested within the vicinity of their respective homes without being told the reasons as to why, until when they got charged with the offence of murder of which they knew nothing. They had nothing more to tell the Court. However, in the course of making his final submission, their learned counsel introduced the defence of alibi, which had not been raised in compliance with the procedural law. In our view that was improper. The said defence of alibi ought to have been raised in the appellants' evidence. Such fact notwithstanding, the trial Judge considered it and dismissed for the reason that, it was baseless. Under the circumstances, we have failed to see the basis of the complaint by the appellants in this aspect. Without any further ado, we answer the third issue in the negative.

Consequently, in the light of what we have endeavoured to discuss above, we hold that the case against the appellants was sufficiently proved

and thereby, making the appeal to be devoid of merit. Without any further ado, we dismiss it in its entirety.

Order accordingly.

DATED at DODOMA this 20th day of August, 2019.

B. M. MMILLA
JUSTICE OF APPEAL

S. S. MWANGESI
JUSTICE OF APPEAL

J. C. M. MWAMBEGELE
JUSTICE OF APPEAL

The Judgment delivered this 21st day of August, 2019 in the presence of the Appellants in person, Mr. Fred Kalonga holding brief for Dr. Kuwayawaya S. Kuwayawaya, learned counsel for the appellants and Ms. Catherine Gwalu Senior State Attorney for the Respondent/Republic is hereby certified as a true copy of the original.



S. J. Kainda
S. J. KAINDA
DEPUTY REGISTRAR
COURT OF APPEAL