IN THE COURT OF APPEAL OF TANZANIA
AT MWANZA

(CORAM: MUGASHA, J.A., MWANGESI, J.A., And LEVIRA, J.A.)

CRIMINAL APPEAL NO. 458 OF 2016

RASHID KAZIMOTO..... 1ST APPELLANT
MASUDI HAMIS..... 2ND APPELLANT

VERSUS

THE REPUBLIC ..... RESPONDENT

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

(Mlacha, J.)

dated the 20th day of October, 2016
in
HC. Criminal Session Case No. 195 of 2013

.....

JUDGMENT OF THE COURT

26th November & 6th December, 2019

LEVIRA, J.A.:

The appellants, Rashid Kazimoto and Masudi Hamis were arraigned before the High Court of Tanzania at Mwanza facing murder charge contrary to sections 196 and 197 of the Penal Code Cap. 16 R.E. 2002. After a full trial, they were both convicted and sentenced to suffer death by hanging. Aggrieved by that decision, the appellants have preferred the present appeal. Initially, the appellants filed a joint memorandum of appeal; but later, through the aid of their respective counsel each preferred a separate memorandum of appeal lodged on 21/11/2015.

It can be noted that despite such preference, the appellants' grounds of appeal in their respective memoranda revolve in similar main complaints as follows:-

1. *That the trial court erred in law for failure to direct the assessors on the vital points of law pertaining to the conviction of the appellants based on the principle of recent possession.*
2. *That the trial court erred in law by convicting the appellants basing on the cautioned statement of the second appellant (co-accused) which was recorded in contravention of the requirements of the law.*
3. *That the trial court erred in convicting the appellants based on the evidence adduced by PW4 and PW5 which were full of inconsistencies and unbelievable.*
4. *That the trial court erred in convicting the appellants based on "exhibits P1, P4 and P5" which were wrongly taken, tendered and admitted in contravention of the requirements of the law.*
5. *That as trial within a trial was not conducted during the hearing of the case in the trial court, the trial Judge erred in law by convicting the appellants basing on the fact that the allegation of torture was baseless.*
6. *That the appellants were not afforded a fair trial as their conviction was readily pronounced after the closure of the prosecution case.*
7. *That the case against the appellants was not proved beyond reasonable doubt.*

A brief background of this appeal is to the effect that, the prosecution alleged that on 9th February, 2010 at Lwamgasa Village within Geita District in the Region of Geita, the appellants did murder one Majeshi Zacharia. The prosecution side summoned a total number of six (6) witnesses to prove their case.

Suzana Busweru (PW2), the wife of the deceased testified that the deceased left his residence on 8/2/2010 but could not return back. She said, her husband used to carry passengers by using a motorcycle (Exhibit P2) and on the eve he told her that someone had called him so that he could ferry him to Nyantimba to pick working tools. According to her, that was the last day she saw him alive. The body of the deceased was recovered the next day, on 9/2/2010.

It was the evidence of Adam Mpipi (PW1) who was by then a Chairman of Lwamugasa Village that, he received information from undisclosed person about the murder incident. He reported the same to the police and later in company of policemen, No. D. 937 D/Corpl. Julius (PW4), No. F. 4145 DC Charula (PW5) and PC Felician, they went to the scene of crime where PW1 identified the body of Majeshi Zakaria who was dead. He said, the body of the deceased was laid on the road and it had wounds on the head; the lower jaw bent and the face swollen.

According to PW4, they found the body of the deceased being naked. The said body was identified by both PW1 and PW2. During the preliminary hearing it was not disputed that the deceased died an unnatural death.

PW4 witnessed the examination of the body of the deceased. Thereafter, he ordered PW5 to draw the map of the scene of crime. In addition, PW4 recalled to have received a phone call informing him about the abandoned motorcycle in the bush. Also in the bush they found a motorcycle with registration No. T. 821 BDJ SANLAG, CC 125 black in colour which was identified by PW1 and PW2 to be the one used to be ridden by the deceased, the property of Hatari Meleka (PW3). According to No. D. 8307 Ssgt. Zakayo (PW6), the policemen conducted investigation and the appellants were arrested on 28/3/2010 as suspects of deceased's murder. PW6 also recorded the appellants' respective statements and later, they were charged and tried.

During trial, the cautioned statement of the second appellant was admitted as "Exhibit P5". PW2 identified a pair of trousers (Exhibit P1) which she said, was of her late husband. According to PW5, the said pair of trousers was found in possession of the second appellant; while the first appellant was found in possession of the key alleged to be of the

motorcycle (Exhibit P2) which was ridden by the deceased. PW5 added that, both appellants agreed that the said pair of trousers and key belonged to the deceased. However, the said key was not admitted as exhibit during trial. It was his evidence that, the second appellant confessed to have killed the deceased in company of other people including the first appellant. It is noteworthy that, even PW6 testified that the second appellant confessed to have been involved in killing the deceased. PW1 identified the first appellant during trial as a person whom he knew; but, admitted in cross-examination that, he did not know the person who killed the deceased.

In defence, the first appellant (DW1) denied each and every detail of prosecution account. He stated that, he neither knew the deceased nor the one who killed him. He denied to have had hired him on 8/2/2010. He could not even recall when and why he was arrested and thus, he prayed to be set free.

On his part, the second appellant (DW2) just like DW1 disassociated himself in killing the deceased. It was his defence that, he was arrested on 28/3/2010 while at the gold fields suspected of murder incident. However, he said, the search to his house was not conducted immediately after his arrest and instead, it was conducted after the

lapse of four days in his absence while he was left in the police van. In the said search the policemen alleged to have found in his house a pair of trousers, jeans (Exhibit P1) which was his property as he had bought it at 10,000/= at Lwamugasa market. DW2 identified Exhibit P1 and during cross-examination, the prosecution side prayed for him (DW2) to be allowed to wear the said trousers so as to prove that it was his. The prayer was granted but after fitting it and appearing before the trial court, the trial Judge ruled out that:- *"The trouser is not fitting him on the waist and length at the foot."* However, DW2 insisted that it was his property and that usually he wears it with a belt.

Another important thing to be noted is that, during cross-examination, DW2 denied to have recorded the caution statement (Exhibit P5) and that he was beaten and forced to make such statement. In addition, he said, although he signed it, he was unaware of the person who recorded it.

Counsel for both sides had the opportunity of making their final submissions and later, the trial Judge made a summing up to assessors which entailed a summary of evidence. Apart from directing them to opine as to whether or not the appellants were guilty, they were also required to opine on the following:-

"1. *Whether the accused persons (appellants) are the ones who murdered the deceased.*

2. *Whether the doctrine of recent possession can be invoked to implicate the accused persons.*

3. *Whether the confessional statement of the second accused was made voluntarily and whether it can be used to implicate other accused persons.*

4. *Whether the offence have (sic) been proved beyond reasonable doubt."*

The assessors returned a verdict of guilty and finally, the trial judge composed his judgment and convicted the appellants as charged.

At the hearing of this appeal, Mr. Constantine Mutalemwa and Mr. Geofrey Kange, both learned advocates appeared for the first and second appellants respectively. The respondent, Republic was represented by Ms. Mwamini Yoram Fyeregete, Senior State Attorney assisted by Ms. Sabina Choghoghwe, State Attorney.

In the first ground of appeal, Mr. Mutalemwa commenced his submission by stating that, the trial Judge did not address assessors on the doctrine of recent possession despite having invoked it to enter conviction of the appellants. He thus argued that section 265 of the

Criminal Procedure Act, Cap. 20 R.E. 2002 (the CPA) was contravened since the assessors were not fully involved in a trial which is rendered a nullity. To support his argument he cited the decision of the Court in **Hassan Juma & Zamoyoni Edesi v. Republic,** Criminal Appeal No. 168 of 2018 (unreported). Mr. Mutalemwa's arguments in regard to the first ground of appeal were fully supported by Mr. Kange.

Regarding the second and fifth grounds of appeal, Mr. Mutalemwa submitted that Exhibit P5, the second appellant's cautioned statement which implicated the first appellant was tendered at the trial but objected to by the second appellant. He argued, it was wrong for the trial Judge to convict the second appellant relying on Exhibit P5 which he had initially objected on account that, he does not know how to write and that, it was recorded out of prescribed time without any justifiable reasons. However, the objection was overruled and the said statement was admitted as exhibit P5. Surprisingly, he said, when the trial Judge was composing his judgment, he determined the voluntariness of the said exhibit purporting to have conducted a trial within trial which was not the case. Subscribing to Mr. Mutalemwa's arguments, Mr. Kange added that, though a trial within trial was not conducted, at page 143 – 144 of the record of appeal, the trial Judge directed his mind on the

issue of voluntariness and he stated that he conducted a trial within trial. He further argued, the trial Judge formulated his own grounds while admitting Exhibit P5. As such, he said, in overruling an objection against the admission of Exhibit P5, the trial Judge relied on other reasons other than those put forth by the prosecution. In the circumstances, Mr. Kange urged us to expunge Exhibit P5 from the record. He cited the case of **Emmanuel Malahya v. Republic**, Criminal Appeal No. 206 of 2014 (unreported) to back up his stance.

Submitting on the third and fourth grounds, Mr. Mutalemwa stated that the trial Judge erred to convict the appellants relying on Exhibit P1 which was tendered by an incompetent witness (PW4). It was his argument that the said witness was not involved in search to qualify to tender the said exhibit.

Mr. Mutalemwa added that, though the search warrant (Exhibit P4) was admitted, it was subsequently not read out to the appellants. According to him, failure to read those contents created doubt as to whether items listed therein were recovered from the second appellant as stated by PW5. He thus urged us to expunge Exhibit P4 from the record because it was improperly admitted and relied upon to ground the appellants' conviction. Associating himself with Mr. Mutalemwa's

submission, Mr. Kange added that, after expunging Exhibit P4 from the record, there is no evidence implicating the second appellant.

In regard to the inconsistency and contradictory evidence of PW4 and PW5, Mr. Mutalemwa submitted that the trial Judge erred to convict the appellants by relying on the evidence of the said witnesses. In faulting the evidence by PW4, the learned counsel stated that this witness was not involved in search; but, testified on it and eventually intended to tender a key which was said to have been recovered from the first appellant. In that regard, Mr. Mutalemwa argued that, PW4 was not a trustworthy witness and that is why the trial Judge rejected his prayer to tender the said key at page 67 of the record of appeal.

Submitting on the sixth ground of appeal, Mr. Mutalemwa argued that the trial Judge erred in predetermining the guilt of appellants immediately after closure of the prosecution case. In that way, according to him, the appellants were not accorded with a fair trial and as such, the trial was vitiated.

Ultimately, both counsel for the parties submitted in respect of the last ground of appeal to the effect that, the case against the appellants was not proved beyond reasonable doubt. According to them, it was wrong for the trial court to convict the appellants basing on such weak

prosecution evidence. They urged us to allow this appeal, quash the convictions and set aside the appellants' sentences and set them free.

In reply, Ms. Fyeregete supported the appeal on ground that, the trial Judge did not direct assessors on vital points of law which he relied upon to convict the appellants. She however, argued that, on account of enough prosecution evidence on record a retrial is worthy.

Conceding that Exhibit P5 was improperly admitted by the trial Judge, Ms. Fyeregete concurred with the submissions by the counsel for appellants that, the trial Judge did not conduct the trial within trial but he indicated so in his judgment. Besides, she added that the nature of objection raised by the second appellant during tendering of the said exhibit did not attract the trial within trial.

Regarding Exhibit P4, Ms. Fyeregete admitted that the said exhibit tendered by PW5 and was properly admitted. The shortfall was failure to read its contents as required by the law. She added that, the pair of trousers (Exhibit P1) was not positively identified by PW2 who did not earlier describe it before seeing the same at the trial.

Having identified the weakness in admission of the above exhibits, Ms. Fyeregete urged us to expunge Exhibits P1, P4 and P5 from the record.

In regard to the contradiction and inconsistencies of the evidence of PW4 and PW5, Ms. Fyeregete submitted that these were credible witnesses. According to her, it is not true that the trial Judge discredited PW4. She pointed out that PW4 witnessed search of the second appellant and signed the seizure certificate. She urged us to find PW4 and PW5 credible witnesses. Eventually, after her short submission, Ms. Fyeregete reiterated her earlier prayer for an order of the retrial.

Mr. Mutalemwa made a brief rejoinder reiterating that, Exhibits P1, P4 and P5 be expunged from the record of appeal. He as well reiterated his earlier submission that PW4 and PW5 were not credible witnesses. In addition, argued that, it was wrong for the trial Judge to rely on the key of the motorcycle to ground the conviction as that was not evidence before the trial court.

We have respectfully considered submissions by counsel for the parties, grounds of appeal and the entire record of appeal. It is our observation that the grounds of appeal fall into two categories. The first category is on procedural irregularities which were alleged to have been committed by the trial Judge; including, non-direction of assessors on vital points of law on the doctrine of recent possession, misdirection by requiring assessors to opine on the voluntariness of Exhibit P5, failure to

let certificate of seizure (Exhibit P4) to be read out after its admission and pre-determination of guilt of appellants. The second category is based on the contradiction and inconsistencies of prosecution evidence.

We prefer to start with the first category. The foremost is whether or not there was non-direction or misdirection of assessors on vital points of law by the trial Judge. Counsel for the parties argued strongly and we agree that the trial Judge contravened section 265 of the CPA by failure to direct assessors on vital points of law. As a result, they said, the trial is deemed to have been conducted without the aid of assessors. In **Said Mshangama @ Senga v. Republic**, Criminal Appeal No. 8 of 2014 (unreported) The Court held that:-

> *"Where there is inadequate summing up, non-direction or misdirection on such vital points of law to assessors, it is deemed to be a trial without the aid of assessors and renders the trial a nullity."*

We agree with counsel for the parties that though the trial Judge required the assessors to give their opinion on the doctrine of recent possession, he did not direct the on such vital point of law.

Another default was a misdirection by the trial Judge in requiring the assessors to opine on the voluntariness or otherwise of Exhibit P5 something which is outside their domain.

Moreover, at pages 114 – 115 of the record of appeal, all the three assessors gave their respective opinions relying on the key which was said to be recovered from the first appellant's possession; but, the said key was not tendered and admitted as an exhibit during trial. Let the relevant parts of assessors opinions speak hereunder.

The first assessor, Hawa Swed had this to say:-

> *"My opinion is that the first and second accused are guilty of murder, killing intentionally.* ***They got a key of the motorcycle from the first accused. The key was brought to court as exhibit****...."* [Emphasis added].

The second assessor, Sospiter Makanza opined that:-

> *"...* ***the first accused was seen with the key to the motorcycle but he has no motorcycle*** *... I see that all the accused persons are guilty."* [Emphasis added].

Mr. Mabula Lucas, the third assessor gave his opinion to the effect that:-

"...The aim was to arrest. ***But they managed to get the key in the cause of arrest. The key was used in the motorcycle of the deceased****... It is the first accused who moved to hire the deceased... The accused are just looking for a way to remove themselves but they are guilty."* [Emphasis added].

As it can vividly be captured from the above quoted extracts, it seems that, the assessors were not directed at what point in time an exhibit forms part of the record so as to be relied upon to ground the conviction. As such, the assessors were not properly directed on the admissibility of the key in order to make rational opinions as to the guilt or other wise of the appellants. Not only that but also, even the trial Judge misdirected himself when he relied on the said key which was not part of the evidence to ground the appellants' conviction. At page 146 of the record of appeal the trial Judge had this to say:

"...First exhibit P5 shows that **the key of the motorcycle was found with the first accused**... I find that the prosecution have proved their case beyond reasonable doubt." [Emphasis added].

Concerning Exhibit P5 (cautioned statement of the second appellant), we as well agree with counsel for the parties that, the trial Judge misdirected assessors when he required them to give their opinion on the voluntariness of the said exhibit. Normally, voluntariness or otherwise of the cautioned statement is determined by the trial Judge in the absence of assessors after conducting a trial within trial. But, this was not the case in the current matter. (See **Godlizen Daud @ Mweta & Solomon Joel @ Soloo v, Republic,** Criminal Appeal No. 259 of 2014 at p. 7). However, again with respect, as reflected from page 143 to 147 of the record of appeal, we have failed to understand whether it was by mistake or design when the trial Judge portrayed a picture that he conducted a trial within trial while he did not. For ease of reference the relevant parts read:-

> *"... He lodged an objection through his counsel on admissibility of exhibit P5 saying that it was obtained through torture.* ***That necessitated the conduct of a trial within trial.*** *In the ruling which was delivered after trial within trial, the allegations of torture were found to be baseless and dismissed. ...* ***I had time to***

observe the second accused repeatedly. I don't believe that exhibit P5 was obtained through torture. *It contains details which could not be obtained by PW6 unless he was told by the second accused...* ***I find as a fact proved that exhibit P5 was obtained voluntarily."***

[Emphasis added].

The above deliberation on voluntariness of the caution statement of the second appellant (Exhibit P5) was made by the trial Judge *suo moto* in the cause of composing his judgment contrary to the dictates of the law as stated above.

When we consider these irregularities, we find that it is unsafe to conclude that the trial was conducted with the aid of assessors as per dictates of section 265 of the CPA. We are thus satisfied, as suggested by the counsel for the parties that, the trial was vitiated.

Another procedural irregularity alleged to have been committed by the trial Judge is with respect to Exhibit P4. As correctly submitted by counsel for both sides, the certificate of seizure was not read out to the appellants. This is reflected in a Ruling which overruled the second appellant's objection when admitting the certificate in question. At page

75 of the record of appeal, the trial Judge made the following observation before admitting the said document as Exhibit P4:-

> *"... Now whether it is signed by all the people as required by section 38 (3) of the CPA or not can be tested during cross-examination.* ***We cannot go into the content of the document which is not even in our hands.*** *I advice the defence counsel to reserve their guns and shoot when it is ripe to do so. Objection overruled. The document is received as exhibit P4."* [Emphasis added].

The record of appeal does not indicate that the contents of the said document were read out in court. We find and hold that it was pertinent for the contents of Exhibit P4 to be read out in court as per the requirement of the law (See **Jumanne Mohamed &Two Others v. Republic,** Criminal Appeal No. 534 of 2015 (unreported)). We therefore expunge Exhibit P4 from the record.

In regard to Exhibit P5, we observe that the same was not certified by the second appellant. It is on record that the second appellant was illiterate not knowing to read and write. Thus the recording of his cautioned statement (Exhibit P5) ought to have complied with section 57 (4)(d) of the CPA which provides:

" (4) Where the person who is interviewed by a police officer is unable to read the record or the interview or refuses to read, or appears to the police officer not to read the record when it is shown to him in accordance with subsection (3) the police office shall-

(d) Ask him to sign the certificate at the end of the record."

In **Yustas Katoma v. Republic**, Criminal Appeal No. 242 of 2006 (unreported), the Court took a different view when the appellant's cautioned statement was challenged on account of improper certification. In that case, contrary to the current one, the appellant knew how to read and write and therefore, the defect could not affect the whole statement. As a result, the said exhibit was not expunged from the record of appeal.

As intimated earlier, counsel for both sides urged us to expunge Exhibit P5 from the record and we accordingly heed to their prayer because we are satisfied that, the said statement lacked proper certification as a result it was improperly admitted unlike in **Amir Ramadhani v. Republic**, Criminal Appeal No. 228 of 2005 (unreported) where the cautioned statement was found to be valid as

appellant therein and the recording officer signed the certification. Therefore, Exhibit P5 is hereby expunged from the record of appeal.

Another legal anomaly raised by the counsel for parties was in respect of the ruling on a finding of 'a case to answer' after closure of the prosecution case. The learned counsel vigorously faulted the trial Judge for predetermining the guilt of the appellants at that stage. This is reflected at page 89 of the record of appeal whereby, the trial Judge gave the ruling having stated:-

> *"... I see that the Republic have lead evidence against the first, second and third accused persons showing that,* ***the accused persons jointly and together committed the offence****..."* [Emphasis added].

We agree with the counsel for the parties that, it was un-procedural for the trial Judge to declare that the appellants committed the offence charged with before giving them an opportunity to make their defence. It is our finding that with the said prejudgment, the appellants were not accorded fair trial which is in violation of Article 13(6)(a) of the Constitution of the United Republic of Tanzania, 1977.

Generally, we find and hold that all the grounds relating to procedural irregularities raised by the appellants are merited. After

considering all the above discussed shortfalls ordinarily, we would have ordered a retrial as suggested by Ms. Fyeregete. However, we refrain from taking that path because of the weak prosecution evidence which takes us to determine the second category of complaints raised by appellants. We shall give reasons.

To cement our position, we shall be guided by the decision of the Court in **Sultan Mohamed v. Republic,** Criminal Appeal No. 176 of 2003 (unreported) where at page 6 quoted with approval the decision in **Fatehali Manji v. Republic** (1966) E.A. 343 which stated that:

> "In general, a retrial will be ordered only when the original trial was illegal or defective; it will not be ordered where the conviction is set aside because of insufficiency of evidence or for the purpose of enabling the prosecution to fill gaps in its evidence at the first trial... each case must depend on its own facts and circumstances and an order for retrial should only be made where the interests of justice require it."

Learned counsel for the parties locked horns on the propriety or otherwise of the retrial. Having expunged, the certificate of seizure (Exhibit P4), caution statement of the second appellant (Exhibit P5) and

the jeans (Exhibit P1) we remain with the oral account of PW2, PW4 and PW5.

The counsel for the appellants faulted the trial Judge for relying on unreliable evidence of PW4 and PW5 to convict the appellants. It was Mr. Mutalemwa's argument that PW4 was not a trustworthy witness because he gave inconsistent and contradictory evidence. Part of PW4's account at page 58 of the record of appeal is as follows:-

> *"On 28/3/2010 we got secrete information that the responsible person was Rashid Kazimoto and others.* ***I sent my assistants to arrest Rashid.*** *He came with the key of motorcycle...* ***We searched him and we met him with a blue jeans property*** *of the deceased.* ***We searched Rashid Kazimoto first. He was searched by Chalula and Felician. They got the keys. I was at the police station.*** *They got the keys. They had no search order.* ***The jeans was picked from Masoud in my presence.*** *We filled the search order."*
>
> [Emphasis added].

As correctly submitted by the learned counsel, if PW4 was at the office and had sent other people to conduct search, it was not practicable on his part to participate in the search where the pair of

trousers was recovered from the second appellants. Therefore, PW4's credibility is questionable and unreliable.

Moreover, at page 76 of the record of appeal while being cross-examined, PW5 gave contradictory statements regarding PW4's involvement in the search having portrayed a picture that, the search was conducted twice but could not substantiate it. However, the search warrant showed that he conducted search jointly with PW4. Let part of his evidence speak for itself hereunder:-

> *"We made the search one day, Corpl.* ***Julius (PW4) was not with us in the first trip.*** *Corpl. Julius was not present when we searched the first accused.* ***It reads that I and Corpl. Julius jointly search the room of Masoud.***"

[Emphasis added].

The law is settled wherever the testimony by witnesses contain inconsistencies and contradictions. It is the duty of the trial court to resolve them where possible, or else the court has to decide whether the inconsistencies and contradictions are only minor or whether they go to the root of the matter. (See **Mohamed Said Matula v. Republic**, [1995] TLR 3; **Joseph Mwita @ Chacha v. Republic,** Criminal Appeal No. 294 of 2012; **Awadhi Abrahamani Waziri v. Republic,** Criminal

Appeal No. 303 of 2014; and, **Juma Salis @ Jonas v. Republic,** Criminal Appeal No. 263 of 2014 (all unreported)).

We find that the evidence of PW4 and PW5 contained inconsistences and contradictory statements which did cast doubt on the prosecution evidence and it was unsafe to rely on such evidence to convict.

As we observed earlier, PW2's evidence could not connect the second appellant with the charge as she did not positively identify the pair of trousers (Exhibit P1). As such, the doctrine of recent possession in respect of the said exhibit was wrongly invoked to connect the second appellant with murder incident.

In the circumstances, it cannot be said with certainty that the prosecution side proved the case against the appellants beyond reasonable doubts.

Having so stated, we find and hold that the appellants' second category of complaints also succeeds.

In view of the aforesaid reasons, the prosecution evidence is weak and that is why we intimated that a retrial is not worthy, or else it will be utilised by the prosecution to fill gaps in its evidence. Therefore, we

allow this appeal, quash the convictions of both appellants and we set aside appellants' sentences. We order immediate release of the appellants from prison unless otherwise they are lawfully held.

DATED at **MWANZA** this 5th day of December, 2019.

S .E. A. MUGASHA
JUSTICE OF APPEAL

S. S. MWANGESI
JUSTICE OF APPEAL

M. C. LEVIRA
JUSTICE OF APPEAL

This Judgment delivered on this 6th day of December, 2019 in the presence of the appellants in person and Ms. Mwamini Yoram Fyeregete, learned Senior State Attorney for the respondent/Republic is hereby certified as a true copy of the original.

THE COURT OF APPEAL OF TANZANIA

S. J. Kainda
DEPUTY REGISTRAR
COURT OF APPEAL