IN THE COURT OF APPEAL OF TANZANIA
AT TANGA

(CORAM: MWARIJA, J.A., WAMBALI, J.A, And KOROSSO, J.A.)

CRIMINAL APPEAL NO. 72 OF 2018

SULEIMAN ABDALLAH .....APPELLANT
VERSUS
THE REPUBLIC .....RESPONDENT

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

(Masoud, J.)

dated the 22nd day of March, 2017
in
Criminal Appeal No. 137 of 2016
.....

JUDGMENT OF THE COURT

17th& 30th September, 2019

KOROSSO, J.A.:

This is the second appeal by Suleiman Abdallah (the appellant). The appeal is against the decision of the High Court of Tanzania at Tanga that upheld the conviction and sentence of thirty (30) years imprisonment imposed against the appellant by the trial District Court of Muheza at Muheza. The appellant was charged with Unnatural offence, contrary to section 154 of the Penal Code, Cap 16 Revised

Edition 2002 (the Penal Code). His appeal to the High Court against conviction and sentence was dismissed on 22nd March, 2017.

A brief background to this appeal, is that on the 3rd January, 2016 around 17.00 hours, at Mji mpya village within the district of Muheza Tanga region, a boy, who we shall henceforth refer to as "AM" aged eleven (11) years (PW1), while *enroute* to the house of his grandmother's cousin with a message from his grandmother (PW3-Halima Shaban), he met the appellant who asked him where he was going. The appellant, when told that "AM" was going to his grandmother's cousin house, decided to follow "AM" while riding a bicycle. Upon reaching "AM's" destination and passing over the message as directed by his grandmother, "AM" left the said house still being followed by the appellant who then managed to convince him to ride in the appellant's bicycle and told "AM" they should go somewhere to meet some "bouncers". Thereafter, the appellant and "AM" rode together towards the bushes which made "AM" uneasy, and on seeing that "AM" was apprehensive, the appellant told "AM" to call him

"brother" as a sign of respect and assured him that they were going to meet some friends and see motorcycles.

On reaching the bush, the appellant directed "AM" to enter the bush and although he was scared he went in with the appellant until they arrived at a small thatched house/hut and entered inside. Inside the said house, allegedly, the appellant moved closer to "AM" and told him to lie down, a move that scared "AM" and he started crying, but was ordered to stop and slapped by the appellant and also told to keep calm. It further alleged that the appellant strangled and forced "AM" to lie on the ground while threatening to kill him, and then removed "AM's" pants, put saliva on his sexual organ and also on "AM" anus. Thereafter, the appellant inserted his penis into the anus of "AM" for more than once, a feat "AM" found painful while the appellant allegedly expressed his bliss. Subsequently, the appellant gave "AM" some grass to use to remove dirt and ordered him to dress up and then used the bicycle to ride back with "AM" giving him Tshs. 200/-, money which "AM" threw away. On arrival at his grandmother's (PW3) place, "AM" narrated the incident to his grandmother while in tears and then with

his grandmother went to report the incident at the Police station. At the police station they were handed a document (PF-3) to take to the hospital and thereafter went to the hospital where "AM" was examined and treated. The appellant was later arrested and charged as per charge sheet.

On his part the appellant categorically disassociated himself with the prosecution allegations regarding committing the offence accused of against "AM", asserting that the charges are fabricated and challenged the credibility of all the witnesses for the prosecution called to prove the case against him. His defence was however rejected by the trial court which convicted the appellant finding the prosecution proved the case against the appellant, and the first appellate court confirmed the conviction and sentence meted for reasons stated hereinabove, hence the current appeal.

In the memorandum of appeal, four grounds of appeal were raised and with the leave of the court, two additional grounds of appeal were

added as found in the appellant's filed written submissions. The grounds of appeal are as follows;

1. *That, the learned trial RM and Honourable trial judge both erred in law and in fact to entertain this criminal case without taking into account no police investigator was called by the prosecution case before trial court to testify as to what was seen or did at the scene of crime and cause the charge laid down upon the appellant to be incurable defective.*
2. *That, both the learned trial magistrate and the appellate judge erred in law and in fact to convict the appellant by relying on the evidence of PW.1 (victim) without notice that the correct age of PW.1 was unsolved if 11 or 12 years.*
3. *That, the two courts below erred in law and in fact to believe that PW1 had sufficient intelligence to justify reception of her evidence without notice that the charge sheet shows the age of PW.1 to be 11 years*

but to make it worse the same witness when cross-examined by the court at page 10 of the proceedings testified her age to be 12 years.

4. *That, both the learned trial RM and the appellate judge erred in law and in fact by failing to notice that the case proceedings shows that the charge sheet was prepared and signed by the prosecutor on 7.01.2016 and the offence alleged to had occurred on 03.01.2016 but to make it worse the public witnesses including PW1, PW2, PW3, PW4 and PW5 did not mention the date the said incident took place.*
5. *That, both the lower courts erred in law by acting upon defective charge sheet to convict the indigent appellant*
6. *That, both the lower courts erred in law by failing to notice that the evidence adduced by prosecution witnesses infringed section 11 of the Evidence Act, Cap 6 Revised Edition 2002 (the Evidence Act) by not*

stating in their evidence the exact date of the alleged buggery took place.

At the hearing of this appeal, the appellant fended for himself and was unrepresented whereas the respondent Republic enjoyed the services of Mr. Peter Mauggo, learned Principal State Attorney assisted by Ms. Regina Kayuni, learned State Attorney.

When provided with an opportunity to amplify on his grounds of appeal and the filed written submissions, the appellant fully adopted the written submissions and the memorandum of appeal filed and then deferred to elaborate on the same and sought the Court to allow the learned State Attorney for the respondent to submit first and then he will reply thereto.

Ms. Kayuni, learned State Attorney submitting on the respondent Republic position, stated that they objected to the appeal and supported the conviction and sentence imposed against the appellant by the trial court and upheld by the first appellate court. The learned State Attorney contended that the 1st, 2nd and 3rd grounds of appeal are

new grounds which were not dealt with or advanced at the High Court on the first appeal, and argued that these grounds should not be considered by the Court. The learned State Attorney restated the position of the law that, a second appellate court should not consider or determine matters not raised before the first appellate court and cemented this position, by citing the holding in **Ramadhani Mohamed vs Republic,** Criminal Appeal No. 112 of 2006 and restated in **George Maili Kemboge vs Republic**, Criminal Appeal No. 327 of 2013 (both unreported) where in the judgment of the Court at page 6, the holding in **Sadick Marwa Kisase vs Republic,** Criminal Appeal No. 168 of 2012 (unreported) was adopted, that:

> *"The Court has repeatedly held that matters not raised in the first appellate court cannot be raised in the second appellate court".*

For the above reasons, the respondent's counsel implored the Court not to consider the said grounds for having no legal standing.

With regard to the 4th ground of appeal, the respondent counsel conceded the fact that none of the witnesses called by the prosecution testified and revealed the date when the alleged offence charged against the appellant took place, but argued that despite this defect, it did not prejudice the interests of the appellant since he was given an opportunity to cross-examine on the matter but did not do this. She also argued that failure by the appellant to cross examine witnesses on this fact, implied acceptance of the truth of the witnesses evidence, as held in **George Maili Kemboge** (supra) at page 4, whereby when making reference to the holding in **Damian Ruhele vs Republic,** Criminal Appeal No. 501 of 2007 (unreported), the Court stated that:

> *"It is trite law that failure to cross examine a witness on an important matter ordinarily implies the acceptance of the truth of the witness evidence".*

The learned State Attorney argued further that in any case, there is also the fact that the charges against the appellant were read over to him and the date is clearly stated, and that the appellant pleaded not guilty to the said charges. Charges which thereafter led the

prosecution to call witnesses to prove as against the appellant and she thus argued that the Court should find that this ground lacks merit and dismiss it.

Moving to the 5th and 6th grounds of appeal, the respondent's counsel argued that when they dissected the said additional grounds they found in effect there was only the 5th ground of appeal to address since the 6th ground of appeal addressed the issue of prosecution witnesses testimonies not providing the date of the alleged incident, an issue which was dealt with in the 4th grounds of appeal.

Regarding the ground alleging that the charges against the appellant were defective, the learned State Attorney conceded the fact that the statement of offence in the charge sheet did not cite particular and relevant subsections of the Penal Code relating to the offence charged and is therefore defective. That the charge states that the offence charged against the appellant is contrary to section 154 of the Penal Code, a provision which has various subsections particularizing on specific offences. She argued that despite this anomaly in the

charges, the particulars of the offence in the charge sheet are very clear, they particularize on the elements and ingredients of the offence charged against the appellant, and that it should be remembered that these charges were read over to the appellant at the preliminary stage of the trial. That the particulars of the offence are clear and reveal the essential elements and the nature of the offence, such as the victim's name, that is "AM", his age, date and place of incident and that after all, the evidence given at the trial by the prosecution related to the offence charged and the charge shows that the offence was committed to "AM" and no one else.

Ms. Kayuni invited the Court to consider the holding in **Jamali Ally @ Salum vs Republic**, Criminal Appeal No. 45 of 2014 (unreported) at pages 19, where the Court addressed failure of the prosecution to cite proper sections and subsections, and stated that the Court's duty faced with such a scenario is to consider whether the defect was prejudicial to the appellant, and that in the case it is not prejudicial then find it is curable under section 388(1) of the Criminal

Procedure Act, Cap 20 Revised Edition 2002 (the CPA) having regard to particular circumstances obtaining to the case under scrutiny.

The learned State Attorney invited the Court, to find that the omission to cite particular subsections in the charges against the appellant in the present appeal is curable under section 388(1) of the CPA for reasons she submitted. The respondent Republic counsel thus prayed for the Court to find that the appeal has not merit and thus dismiss the Appeal in its entirety.

When invited by the Court to address it on whether the sentence meted by the trial court which went undisturbed by the first appellate court was proper under the circumstances, the learned State Attorney stated that the sentence was appropriate, and that she was unaware of any amendments to the relevant provisions. Even when prompted by the Court on whether section 185 of the Law of the Child Act, Act No. 21 of 2009 (the Child Act) has an impact on section 154(2) of the Penal Code, her position remained the same.

For the appellant, the written submissions addressed mainly two grounds of appeal. The 5th ground of appeal which challenged the decisions of the lower courts on acting on a defective charge sheet, arguing that there is no section 154 in the Penal Code and that citing only section 154 in the charges does not provide a description of the category of alleged buggery. The appellant cited the case of **Richard Maginga vs Republic**, Criminal Appeal No. 133 of 2016 (unreported), where the Court held that failure to cite sections creating an offence is synonymous to charging an accused person with a non-existing law, and that such omission is not a minor defect since it goes to the existence of the charge itself. Other cases cited were, **Nassoro Juma Azizi vs Republic**, Criminal Appeal No. 58 of 2010 and **Juma Mohamed vs Republic**. Criminal Appeal No. 272 of 2011 (both unreported), aiming to cement his position on the weight to be accorded where the charge is defective in terms of failing to particularize the categories of the offence. Thus the prayer was for the Court to find the charges against the appellant to be defective and thus allow the appeal.

In consideration of the 6th ground of appeal that addresses failure of prosecution witnesses to testify on the date of the alleged commission of the offence by the appellant against "AM" arguing that this failure should lead to a conclusion that the offence charged against the appellant is fabricated. In his oral submissions the appellant challenged the credibility of witnesses who testified for the prosecution alleging inconsistencies in their evidence, for instance, that PW1 testimony is not believable since his conduct after the alleged act should raise suspicions, and thus his story should not be believed. The appellant also reiterated his contention that the age of the victim was not proved, on whether he was 11 or 12 years of age, and argued that this anomaly renders the allegations against him untruthful. The appellant had nothing to say on the issue whether the sentence was proper or not, contending that he was not conversant with the law. The appellant prayed for his appeal to be allowed and to be set free.

We have carefully considered the submissions before us, both oral and written pertaining to this appeal and the cases cited by the parties. We wish to state that while we agree with the learned State Attorney

that the 1st ground of appeal is a new ground not raised nor decided by the first appellate court, the 2nd and 3rd grounds of appeal cannot fall on the same plain. This is because these two grounds of appeal allege on failure of the first appellate court to re-evaluate the prosecution evidence against the appellant at the trial court, which we feel is an issue raised and decided in the first appellate court.

Therefore we will start with determination of the 1st ground of appeal. Foremost, it is important to reiterate the fact that this Court will not consider and deal with grounds of appeal which were not addressed in the first appellate court. This stance has been reiterated in various decisions of this Court including **Ramadhani Mohamed vs Republic** (supra) where it was held:-

> *"We take it to be settled law, which we are not inclined to depart from, that this Court will only look into matters which came up in the lower court and were decided, not on matters which were not raised nor decided by neither the trial court nor the High Court on appeal".*

The position was reiterated in **Samwel Sawe vs Republic**, Criminal Appeal No. 135 of 2004 and **Emmanuel Josephat vs Republic**, Criminal Appeal No. 323 of 2016 (both unreported) where it was stated that where grounds of appeal are raised in the Court for the first time, it will not entertain and determine for lack of jurisdiction. That as a second appellate court, the Court cannot adjudicate on a matter which was not raised as a ground of appeal in the High Court. This position is grounded on the provision of section 6(1) of the Appellate Jurisdiction Act, Cap 141 RE 2002 (the AJA), where this Court derives mandate to address appeals from the High Court or a subordinate court exercising extended powers and thus presupposing that an issue has to emanate from the said courts or those below.

For reasons stated, and having diligently scrutinized the grounds of appeal before us, we are satisfied that the 1st ground of appeal raise matters which neither came up nor were they decided in the first appellate court. Thus with this finding, we abstain to determine the 1st ground of appeal for reasons stated, and it is hereby struck out.

The 2nd ground of appeal challenges the trial and first appellate courts' reliance on PW1 evidence specifically in terms of whether or not he was 11 or 12 years of age. We shall consider this ground jointly with the 3rd and the 6th grounds of appeal. The two grounds in effect address credibility of witnesses, such as whether PW1 had sufficient intelligence to testify and his evidence to be relied on and also challenging the fact that the prosecution witnesses failed to disclose the date of the charged offence against "AM" committed by the appellant as found by the decisions of the trial and first appellate courts.

The first appellate judge considered this issue as found at pages 86 and 87 of the record of appeal, and he was of the view that the evidence on the record did not state in clear terms when the offence was committed and went on to consider whether failure of the prosecution witnesses to indicate the date the incident occurred, is in the circumstances a fundamental factor rendering an appellate court to interfere. The High Court judge considered the contents of the charge sheet and found that, it states that the offence took place on 3/01/2016 at 17.00 hours at Mji Mpya within Muheza district, Tanga region. He

also considered what transpired at the Preliminary Hearing and found that all the facts presented by the prosecution which included the date of commission of offence charged were denied by the appellant except for the appellant's name and particulars. That these were the charges against which the appellant was charged.

From this, the High Court judge found that, despite the fact that, the victim (PW1) did not state the exact date the incident occurred, but having considered his testimony, stating that it; "*was very particular and precise that he was carnally known by the appellant*". That PW1 was very elaborative of what transpired during the incident and concluded that considering the age of the victim at the time of the incident. The first appellate judge having considered the evidence of PW1, had no doubt in his mind that he recounted step by step of what transpired regarding the incident that he had experienced on the fateful day. The judge was also of the view that the evidence of PW1 was corroborated by the evidence of the grandmother (PW3) who narrated how PW1 came back crying and narrated what had transpired and told her that "Sele", the appellant sodomised him. The first appellate judge

also found that this evidence was also corroborated by PW5, the doctor who examined PW1 and also tendered Exhibit P1 (the PF3) which showed that PW1 had bruises and blood stains in his anus which implicated penetration. The High Court judge found no reason to depart from the trial court's finding of facts on the veracity of PW1 testimony. Thus held that failure to narrate the date of the incident did not in any way vitiate the fact that what was testified in terms of the incident is what transpired, and thus finding the anomaly curable.

On our part, having considered what is before us, and our task at this juncture being to determine whether failure by witnesses to testify on the age of the victim under the circumstances is curable or not, we find no reason to depart from the finding of fact on the issue of credibility of witnesses who testified on the incident, especially PW1 whose evidence we find was supported by PW3 and PW5. It was also found by the trial court and confirmed by the first appellate, that PW1 was a credible and reliable witness in narration of what transpired, starting from the time the appellant followed him when going to his grandmother's cousin, to the sexual assault. His testimony on how he

was lured into the bush, and how the appellant's sexual organ was inserted into his anus through threats and beatings from the appellant, and how he endured the pain and suffering, from the said unnatural act of the appellant.

There is also the evidence that PW1 immediately informed his grandmother (PW3) upon reaching her and narrated the incident step by step, and also considering the contents of Exhibit P1 (the PF3) and the evidence of PW5 supporting PW1's contention. All these facts giving more credence to the evidence of PW1 and leaves the Court with no shadow of doubt that this is what transpired. PW5 testified to attend to PW1 on the 4th of January 2016. We also find the contention of the age of the victim being 11 or 12 being undetermined is a minor issue, since all the witnesses never disputed that PW1 is a child that is under 18 years of age. This issue does not in any way prejudice the rights of the appellant as it relates to the charge under scrutiny, therefore any anomaly discerned is curable. We thus find that the 2nd, 3rd and 6th grounds of appeal lack merit and dismiss them.

Next we proceed to consider the 4th ground of appeal. This will not take much time, since the issue that is challenged is the delay in filing the charge against the appellant. The argument being the fact that the date of filing the charge being 7th January, 2016 and the date of the alleged commission of the offence charged being 3rd January, 2016, thus imploring the Court to find this unexplained difference shows the charge is fabricated especially where the witnesses for prosecution failed to state the date of the alleged incident. Suffice to say, though this ground was not directly addressed in the 1st appellate court as it is, but it touches on testimonies of witnesses and evaluation of evidence by the 1st appellate court. We are aware that the charge against the appellant stated that the offence occurred on the 3rd of January 2016 and from the memorandum of agreed facts during the preliminary hearing signed by the appellant (accused then) at page 6 of the record of appeal, two of the facts not disputed are the date of arrest and the date he appeared in court. The date of arrest was 5th January, 2016 and that he was arraigned on the 7th January 2016. The testimony of the appellant himself does not dispute this, stating he was arrested on

5th January 2016 and brought to court on 7th January 2016, found at page 23 of the record of appeal. Therefore one cannot expect charges to be drawn in the absence of the accused, but drawn and filed after his arrest and on the day he is arraigned, and in this case it was on the 7th of January 2016. Therefore this ground also falls, for lack of merit.

Moving to the 5th ground of appeal, we are of the view that, the particulars of the offence, which were read over to the appellant are very clear specifying on the date of incident. For ease of reference, we reproduce the charge sheet:

IN THE DISTRICT COURT OF MUHEZA

AT MUHEZA

CRIMINAL CASE NO. 05 OF 2016

REPUBLIC V/S SULEIMAN ABDALLAH

CHARGE SHEET

***STATEMENT OF OFFENCE**: Unnatural offence c/s 154 of the Penal Code (Cap 16 R.E. 2002)*

***PARTICULARS OF OFFENCE**: That SULEIMAN ABDALLAH is charged on the 3rd day of January 2016 at or about 17:00hrs at Mji mpya village within the district of Muheza in Tanga region, did have carnal knowledge to ..... against order of nature a boy of 11 years of age.*

STATION: MUHEZA

.....

DATE: ..... *PUBLIC PROSECUTOR*

(It should be noted that (.....) above in the reproduced charge sheet is our own input having opted not to reveal the name of the victim.)

Going over the above charge sheet, without doubt reveals that there is non-citation of essential provisions of the law and on the face of it, the statement of offence is defective, a fact conceded by the

learned State Attorney. The cited provisions apart from missing the particular subsection of section 154 of the Penal Code, that is, (1) (a) also has omitted the punishment section that is (2) of Section 154 of the Penal Code. The appropriate citation for the offence charged would have been Section 154(1(a) and (2) of the Penal Code, which states:

Any person who–

(a) has carnal knowledge of any person against the order of nature;

(b) N/A

(c) N/A

(2) Where the offence under subsection (1) of this section is committed to a child under the age of eighteen years the offender shall be sentenced to life imprisonment.

Therefore the assertion by the appellant that section 154 of the Penal Code does not exist are not true because the provision is there and issue being that that there was non-citation of all the relevant

subsections related to the offence charge against the accused person. While aware of the position of the law, that is, section 132 of the CPA which specifies that offences must be specified in the charges with necessary particulars, we are also mindful of the decisions of this Court on the issue. In **Charles Mlande vs Republic**, Criminal Appeal No. 270 of 2013, when discussing charges which are found to be defective, it was held:

> *"...the statement of offence must contain a reference and, for that matter, a correct reference to the section of the enactment creating the offence. Quite obviously the statement of offence in the case at hand made an incorrect reference. We are: however, keenly aware that not every defect in the charge sheet would invalidate a trial. As to what effect the defect could lead, would depend on the particular circumstances of each case, the overriding consideration being whether or not the infraction worked to the prejudice of the person accused".*

We have considered all the cited decisions by the appellant and find that they are distinguishable in that most of them address defects which are fatal and not curable. The issue for consideration we find, is whether the defect arising from wrong and non-citation of appropriate provision prevented the appellant from understanding the nature and seriousness of the offence charged and the omission prevented him from entering his proper defence thereby occasioning injustice. See **Jamali Ally @ Salum vs Republic** (supra) where the Court held that:

> *"where the particulars of the offence are clear and enabled the appellant to fully understand the nature and seriousness of the offence for which he was being tried for, where the particulars of the offence gave the appellant sufficient notice about the date when offence was committed, the village where the offence was committed, the nature of the offence, the name of the victim and her age, and where there is evidence at the trial which is recorded giving detailed account on how the appellant committed the offence charged, and thus any*

irregularities over non citations and citations of inapplicable provisions in the statement of the offence are curable under section 388(1) of the Criminal Procedure Act, Cap 20 Revised Edition 2002 (the CPA)'.

Applying the above principle to the present case and taking into consideration the particulars of the offence, the evidence of the witnesses especially PW1, PW3 and PW5, and the fact that the charges were read over to the appellant and pleaded not guilty to the charges there is no doubt that the appellant did understand the charges against him. Consequently, the omission of the appropriate subsections in the particulars of the offence in the charge sheet in the present case, we find that it did not in any way prejudice the rights of the appellant and thus curable under section 388 of the CPA. So, the 5th ground of appeal is dismissed for lack of merit. In the premises, having struck out the 1st ground of appeal and dismissed the 2nd, 3rd, 4th, 5th and 6th ground of appeal, without doubt the appeal against conviction of the appellant falls having no legs to stand on.

The next issue for consideration is legality and propriety of the sentence meted to the appellant by the trial court. The trial court, upon conviction sentenced the appellant to thirty (30) years imprisonment and the first appellate court decided not to disturb the imposed sentence. The principle governing sentencing restates that sentencing is in the domain of the trial court. The appellate court may only alter, interfere or vary the sentence imposed by a trial court where there are good grounds for doing so. This issue was discussed in **Swalehe Ndugajilunga vs Republic** [2005] TLR 94, on grounds where an appellate court may interfere with the sentence imposed by the trial court. Among such grounds are **one**, where the sentence is manifestly excessive; **two**, where the sentence is manifestly inadequate; **three**, where the sentence is based upon a wrong principle of sentencing; **four**, where the trial court overlooked a material factor, and **five**, where the sentence is plainly illegal.

Thus considering the circumstances of the present case, we have to determine whether there is anything pertaining to this appeal warranting this Court to interfere with the sentence imposed to the

appellant by the trial court and left untouched by the first appellate court.

We are aware that a conviction from the offence under Section 154(1)(a) and (2) of the Penal Code warrants a sentence of life imprisonment, where the victim is under eighteen years and not thirty years. This was ushered in by the amendments to section 154 of the Penal Code, vide section 185 of the Law of the Child Act, 2009. This is a mandatory provision. The current charge was preferred in 2016 after operationalization of the said amendments. Therefore, the sentence imposed by the trial court of thirty (30) years imprisonment and which was not disturbed by the first appellate court is illegal. A sentence of life imprisonment is mandatory according to section 154(2) where the victim is under eighteen years of age.

We therefore set aside the illegal sentence of thirty (30) years imprisonment which was imposed against the appellant and substitute thereof with a sentence of life imprisonment as provided under section 154(2) of the Penal Code.

In the event, the appeal is dismissed and sentence enhanced as prescribed hereinabove. Order Accordingly.

DATED at **TANGA** this 27th day of September, 2019.

A. G. MWARIJA
JUSTICE OF APPEAL

F. L. K. WAMBALI
JUSTICE OF APPEAL

W.B. KOROSSO
JUSTICE OF APPEAL

The judgment delivered this 30th day of September, 2019 in the presence of the Appellant in person and Mr. Peter Maugo, learned State Attorney assisted by Ms. Regina Kayuni, learned State Attorney, for the Respondent is hereby certified as a true copy of the original.

THE COURT OF APPEAL OF TANZANIA

A.H. Msumi
DEPUTY REGISTRAR
COURT OF APPEAL