IN THE COURT OF APPEAL OF TANZANIA
AT DAR ES SALAAM

(CORAM: LILA, J.A., SEHEL, J.A. And LEVIRA, J.A.)

CRIMINAL APPEAL NO. 172 OF 2018

FARAJI SAID..... APPELLANT

VERSUS

THE REPUBLIC.....RESPONDENT

(Appeal from the Judgment and Decree of the High Court of Tanzania at Dar es Salaam)

(Mwenempanzi, J.)

dated the 6th day of July, 2018
in
HC Criminal Appeal No. 385 of 2017

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JUDGMENT OF THE COURT

12th & 31st August, 2020

SEHEL, J.A.:

The appellant, Faraji Said, was charged before Ilala District Court at Samora Avenue (the trial court) with the offence of rape contrary to sections 130 (1) (2) (e) and 131 (1) of the Penal Code, Cap 16, R.E. 2002 (the Penal Code). It was alleged that on 24th day of December, 2015 at Kitunda area within Ilala District in Dar es Salaam Region the appellant did have carnal knowledge with a girl of 8 years old. For the purposes of hiding

the victim's identity we shall be referring to her as PW1 because she testified as PW1.

After the charge was read to him, the appellant denied it. Consequently, the case proceeded to a full trial whereby the prosecution paraded a total of six witnesses whereas the appellant fended for himself and did not call any witness. At the end of the trial, the appellant was found guilty as charged. He was thus convicted and sentenced to life imprisonment. His appeal to the High Court at Dar es Salaam (the first appellate court) was unsuccessful, hence the present appeal which is against both conviction and sentence.

The substance of the evidence which led to the conviction and sentence of the appellant was as follows: the appellant and PW1 were residing in the same house belonging to the appellant's mother whereby the parents of PW1 rented one of the rooms. On 24th December 2016 when PW1 arrived at home, coming from the Islamic knowledge studies (commonly known as madrasa), the appellant called her to his room to collect money for buying airtime voucher for him. Immediately after she entered inside, the appellant undressed her and threw her on his bed. He took off his clothes and forcefully inserted his penis into her female organ

until he satisfied his desire. PW1 narrated that she experienced pain and could not walk properly. She tried to raise an alarm but nobody came to her rescue because nobody was around and the radio of the appellant was at a very high volume. She had to tell her mother, Halima Issa Mohamed (PW2) who inspected her private parts, sent her to Kitunda Police Post and then to Amana Hospital where she was examined by Dr. Rose Tambulo (PW6).

Conversely to what PW1 told the trial court, PW2 on her part told the trial court that she learnt from Rahma Almas (PW3), the friend of PW1 that the appellant raped her daughter and it was after two weeks from the date when the incident occurred. According to PW2 she was told by PW3 that the incident took place on 9th January, 2016. Upon receipt of such information from PW3, she inquired from her daughter if it was true and the daughter confirmed the news. She also asked the appellant but he did not respond to her question.

PW3 somehow corroborated the story of PW2 that it was her who informed PW2 about the rape. She said, after noticing PW1 was not walking properly she had to ask her as to what had befallen to her and that is when PW1 opened up to her that she was raped by the appellant but she did not

tell her on when exactly she was raped because she could not recall the date. Upon receipt of such information, she narrated it to PW2.

The evidence of Nassoro Mrisho (PW4), the ten cell leader, was to the effect that on 10th January, 2016 PW2 reported to him about the rape of her daughter. At the time PW2 went to report the matter to him a lot of angry people had already gathered at the appellant's house. He called the police who came and arrested the appellant.

An investigative officer, WP 5726 DC Diana James (PW4) testified that upon receipt of the case file, she began her investigation by visiting the scene of crime and interviewing the victim and witnesses.

At Amana Hospital, PW1 was examined by PW6 who established that the vagina of PW1 had no hymen and there were no bruises nor sperms which was not normal for her age. The appellant was eventually charged with rape.

In his defence evidence, the appellant acknowledged that he was confronted by PW2 with the allegation of raping PW1 but he decided to remain quite because he thought it was just a joke. On that night he slept at home but on the next day in the morning he went to visit his brother at Majohe. While there, he was called and told that Mustapher was looking for

him as he was being accused to have raped PW1. He returned home and was arrested for the offence of rape. The appellant further told the trial court that PW2 fabricated the case against him because of jealous. According to him, the jealous was cause by him ending up their love relationship after he had found another woman.

The trial court found that the offence of rape was proved beyond reasonable doubt by a single witness that is by PW1 who was the victim of the crime of the sexual abuse and that she was a trustworthy witness. The trial court went further to note from the demeanour of PW1 and from the evidence of PW6 that PW1 was used to sexual abuse and remarked that *"there is very possibility that this child suffered this abuse from other men also...".* Nonetheless, it held that the adduced evidence by PW1 proved that she was raped by the appellant on the material date. Thus, it found the appellant guilty as charged. It convicted and sentenced him to life imprisonment.

Dissatisfied, the appellant appealed to the High Court. Having heard the appeal, the first appellate court upheld the finding of the trial court although it was not sure as to whether the trial court properly conducted

the *voire dire* test to the witness of a tender age, PW1. For better appreciation of the remarks made by the learned first appellate judge, we reproduce his words as follows:-

> *"In my understanding the law as it stands now, before evidence of the child of tender age may give evidence, that child must make a promise to tell the truth. In this case we have a record of questions and remark of the honourable trial magistrate.* ***Whether the remarks are enough or at least equivalent of the requirement prescribed by law.****" [Emphasis is added]*

He then went on to say:

> *"I believe, once a child has passed the assessment that the child has sufficient intelligence and can give her testimony under oath is as well as that child knows the value of truth. Making promise to tell nothing but the truth is not an end by itself The important thing here is the truth itself which must be said in the testimony.*

In my opinion a child who passed the assessment of the magistrate to testify on oath is capable of speaking the truth. What remains is to ascertain whether her testimony is true and reliable or not."

Having noted that the evidence of PW1 was to the effect that she was raped by the appellant and after quoting the testimony of PW6, the first appellate judge concluded *"part of testimony of PW1 speaks a lot. The description of.sequence of events is believable given the age of the witness. She even identified him in court. The appellant is linked to the offence by the testimonies of PW1 and PW6 he has no room to exonerate himself."* Against this backdrop, the first appellate court upheld the findings of the trial court and dismissed the appeal.

The appellant was aggrieved with the findings of the first appellate court. He initially filed a six point memorandum of appeal followed by additional three grounds of appeal contained in the supplementary memorandum. The first six grounds of appeal were:

1. *That, The 1st Appellate judge erred in law by upholding the appellant conviction and sentence based on a defective charge as*

the section of the penal code preferred against him does not support the sentence meted.

2. *That, the 1st Appellate judge erred in law by upholding the conviction and sentence meted out to the appellant based on PW6's testimony yet failed to consider the fact that the same doctor testified that a hymen can be removed by several factors.*

3. *That, the 1st Appellate judge grossly misdirected himself when concluded that when a court finds that a witness/child has passed a test of giving his/her evidence on oath automatically knows the duty of speaking the truth.*

4. *That, the 1st Appellant judge erred in both law and fact by upholding the conviction and sentence meted out to the appellant based on PW1's evidence despite her veracity being wanting, worse still the date of the said incident was not proved neither by the person who broke the news to PW2 between PW1 and PW3.*

5. *That, the 1st Appellate judge erred in both law and fact by upholding the Appellant's conviction and sentence without considering that the credibility of each witness in a case ought to*

be dispassionately assessed by testing it not only against the entire evidence on record including that of the appellant.

6. *That, the 1st Appellate judge erred in upholding the appellant's conviction and sentence in a case that was not proved to the required standard.*

The three additional grounds contained in the supplementary memorandum of appeal were:

1. *That, your lordships, the learned first appellate judge grossly misdirected himself in law by holding to the inadmissible oral evidence of PW1 which was recorded contrary to section 127 (2) of the Tanzania Evidence Act, Cap.6 as amended by Miscellaneous Amendments Act No.4 of 2016 as there is no evidence on record to show that PW1 "promised to tell the truth".*

2. *That, the learned first appellate Judge erred in law by sustaining the appellant's conviction based on the incredible oral evidence of PW6 while failing to realize that;*

    i. *PW6 didn't properly establish her credentials/qualification to ascertain that she was a professional Doctor.*

    ii. *An old broken Hymen cannot be proof of defilement.*

iii. No plausible explanation was given by this witness as to why there was no traces of injury/bruises found on PW1 which would be fresh considering the alleged age of victim.

3. That, the learned first appellate Judge grossly erred in law by sustaining the appellant conviction in a case where there was serious misdirection in law as;

i. No evidence on record to show that PW1 identified the appellant in court by either pointing or touching him.

ii. Investigator (PW5) didn't mention whether she saw the items described (radio, bed) in the room by PW1 when she visited Locus in quo to ascertain the truth of allegation.

iii. The substance of charge was not explained to the appellant before entering his defense contrary to section 231 (1) of the CPA (R.E. 2002).

The appellant also filed written submissions and amended written submissions to expound his grounds of appeal.

At the hearing of the appeal, the appellant appeared in person unrepresented, via video link conference from Ukonga Prison whereas the

respondent/Republic was represented by Mr. Ramadhani Kalinga assisted by Ms. Neema Moshi, both learned State Attorneys.

When given a chance to expound his grounds of appeal, the appellant being a layperson had nothing much to say apart from adopting his two sets of memoranda of appeal and the amended written submissions while abandoning the initial written submissions he had earlier on filed. He then urged us to consider them and set him free from prison custody.

On his part, Mr. Kalinga resisted the appeal and opted to respond to each and every ground of appeal seriatim.

Responding to the first ground in the memorandum of appeal concerning defective charge sheet, he pointed out that the charge leveled against the appellant is appearing at page 1 of the record of appeal and it was for an offence of rape contrary to section 130 (1) (2) (e) and 131 (1) of the Penal Code. He submitted that according to section 135 of the Criminal procedure Act, Cap. 20 R.E 2019 (the CPA) read together with the 2nd schedule, the charge sheet was proper because section 131 (1) of the Penal Code prescribes a punishment of life imprisonment.

When probed by the Court as to whether section 131 (1) of the Penal Code prescribes a mandatory life imprisonment to an offender found guilty with an offence of raping a child below ten years old, Mr. Kalinga relented and changed his line of argument that the charge ought to have cited section 131 (3) of the Penal Code and not section 131 (1) of the Penal Code. He, however, was adamant that the defect was curable under section 388 of the CPA and it did not prejudice the appellant because the particulars of the offence fully informed him that he was charged with an offence of raping a child of tender years and that the evidence led during trial also informed him so such that he was able to mount his defence.

Responding to the second ground of appeal, he contended that it was a new issue as it was not raised and determined by the High Court. Therefore, he urged us not to consider it. In the alternative, if the Court considers it as a legal issue then he argued that the doctor, PW6 who examined the victim (PW1) was a qualified doctor. He referred us to page 38 of the record of appeal where the doctor detailed her education background and work experience. It was Mr. Kalinga's view in terms of section 47 of the Evidence Act, Cap. 6 R.E 2019 (the Evidence Act) that

PW6 was a qualified expert whose evidence was properly received by the trial court.

In addressing the 3rd ground of complaint that *voire dire* was not properly conducted, Mr. Kalinga conceded that, the child's evidence was received by the trial court on 9th November, 2016 after the amendment of the Evidence Act through the Written Laws (Miscellaneous Amendments) (No. 2) Act, 2016 (Act No. 4 of 2016) which came into force on 8th July, 2016.

He added that the law as it stands now requires the child to promise to tell the truth to the court and not to tell lies whereas in the present appeal, PW1 did not make such a promise. He referred us to pages 14 to 15 of the record of appeal where *voire dire* was conducted but there was no promise of telling the truth. He was of the view that, since the witness (PW1) did not promise to tell the truth the *voire dire* was conducted contrary to the requirements of the section 127 (2) of the Evidence Act. He thus urged us to expunge from the record the evidence of PW1. Having expunged the evidence of PW1, Mr. Kalinga argued, the remaining evidence

does not suffice to warrant conviction of rape against the appellant. In the end, he prayed to the Court to allow the appeal.

The appellant, on his part, had nothing to rejoin than to pray for an order for his release from the prison custody.

Having considered the grounds of appeal and the submission of the parties, we find it apt to state that this is a second appeal. It is settled principle of law that, the Court rarely interferes with concurrent findings of fact by the courts below. The Court can interfere where there are mis-directions or non-directions on the evidence, a miscarriage of justice or a violation of some principle of law or practice. (See **The Director of Public Prosecutions v. Jaffari Mfaume Kawawa** [1981] TLR 149 and **Musa Mwaikunda v. The Republic** [2006] TLR 387).

In the present appeal we shall be mindful of that position of the law. Starting with the appellant's complaint on the defective charge sheet, as correctly observed by the learned State Attorney the charge laid against the appellant at the Ilala District Court at Samora Avenue cited sections 130 (1) (2) (e) and 131 (1) of the Penal Code and it did not cite subsection 3 of section 131 of the Penal Code that prescribes a mandatory sentence of life

imprisonment to a person convicted of a charge of raping a child below ten years old. Obviously that omission rendered the charge sheet to be defective. Nonetheless, we are in full agreement with the learned State Attorney that the defect did not prejudice the appellant because the particulars of offence gave sufficient information to the appellant that he was alleged to have committed the offence of rape to a girl of eight years old. Further, the evidence of the prosecution witnesses, most specifically PW2, PW3, PW5 and PW6 referred the victim as a child whose age was below ten years old. It is on record that the appellant was present in court when the witnesses gave their evidence. Therefore, he had an opportunity to hear the evidence of PW2, PW3, PW5 and PW6. He cross examined them and eventually defended himself with the understanding that he was alleged to have raped a child of tender years.

In the case of **Burton Mwipabilege v. The Republic**, Criminal Appeal No. 200 of 2009 where we were faced with similar circumstances we held:

> *"As for the penalty provision, the section cited was also not proper. Since the victim was 10 years old, the proper punishment section would have been section*

131 (3) where life imprisonment is the prescribed minimum sentence, and not section 131 (1) where the minimum sentence is 30 years imprisonment. On the face of it therefore, the charge is illegal in form. But, we agree with Mr. Rwegerera that this is curable under section 388 of the CPA, because the irregularity has not, in our view, occasioned a failure of justice."

We reiterate the same position in this appeal that the defective charge sheet is curable under section 388 of the CPA because the irregularity did not occasioned a failure of justice to the appellant as the particulars of the offence coupled with the evidence mounted by the prosecution clearly informed him of the nature and seriousness of the offence of rape he was being tried for. We therefore find no justifiable reason to alter the concurrent findings of the two lower courts. The first ground of appeal is dismissed for lacking merit.

We now turn to the second ground of appeal that PW6 was not qualified to examine PW1. It is true that the complaint was not raised at the first appellate court but since it is a legal issue we proceed to determine it.

As rightly observed by the learned State Attorney, PW6 gave a detailed description of her qualification in her cross-examination. For ease of reference we reproduce the relevant part of her cross-examination as follows:

> *"I got my training from Bomb Institution of medicine. I studies for 2 years. I was awarded Assistant Medical Officer Certificate. In Mbeya, I studied for 3 years and became Medical Officer. I have studied for five years and became a Doctor. I have 22 years experience..."*

From the above evidence, it is gathered that PW6 was a medical doctor with 22 years experience. She started her carrier as an Assistant Medical Officer and after pursuing her further studies she became a medical doctor.

Now the issue here is whether a person with such qualification is legally permitted to medically examine PW1 and issue her expertise opinion. In order to adequately answer this question we wish to start with the general principle that usually when a crime such as assault, harm or sexual assault is reported to the police, the victim is issued with a Police Form No. 3 (PF3). A copy of the PF3 is prescribed under Police General Orders No.170

of 2016. It is issued by the Inspector General of Police pursuant to the powers vested to him under section 7 (2) of the Police Force and Auxiliary Services Act, Cap. 322 R.E 2002. That copy of the PF3 has four parts. The first part is filled by the police officer requesting for a medical examination to be conducted to the victim. According to the PF3, the medical examination has to be conducted by a Medical Practitioner.

Section 2 of **the Medical, Dental and Allied Health Professionals Act No. 11 of 2017** (The New Act) defines a Medical Practitioner as *a person holding a degree, advanced diploma or certificate in medicine or dentistry from an institution recognized by the medical Council of Tanganyika established under section 4 of the New Act, with his level of competency and registered enrolled or enlisted to practice as such under sections 18 and 22 of the New Act.*

In the instant appeal, PW1 was examined prior to the coming into force of the New Act. She was examined on 10th January, 2016 whereas the New Act came into force on 13th October, 2017 vide Government Notice Number 41 Vol. 98 dated 13th October, 2017. We shall, therefore, use the definition provided in **the Medical Practitioners and Dentists Act**, Cap. 152 R.E 2002 (the Repealed Act) applicable at that time.

Section 2 of the Repealed Act defined Medical Practitioner to mean any person professing to practice medicine or surgery, or holding himself out as ready and willing to give medical or surgical treatment to patients and that person has to be registered and licensed pursuant to sections 17 and 22 of the Repealed Act.

From the above definition, we discern that the qualifications and educational background as testified by PW6 that she was a medical doctor with a professional experience of 22 years squarely fits in the definition provided under sections 2, 17 and 22 of the Repealed Act. She was thus qualified and capable person to examine PW1. Equally on this second ground of appeal we find no fault for us to alter the concurrent findings of the two lower courts. This ground also lacks merit, it is dismissed.

The last ground of appeal argued by the learned State Attorney is ground number three regarding the procedure adopted by the trial magistrate in receiving the evidence of PW1 who was, at the time of giving her evidence, nine years old. It is on record that the trial magistrate having observed that she was faced with a witness who was a child of tender years, conducted *voire dire.*

Indeed, as correctly observed by Mr. Kapinga, at the time PW1 was giving her evidence on 9th November, 2011 there was changes to section 127 (2) of the Evidence Act. The changes were brought through the Written Laws (Miscellaneous Amendments) (No. 2) Act, 2016 (Act No. 4 of 2016) which came into force on 8th July, 2016. Section 127 (2) of the Evidence Act as amended provides:

> *"A child of tender ager may give evidence without taking an oath or making an affirmation but shall, before giving evidence, promise to tell the truth to the court and not to tell lies."*

In the case of **Geoffrey Wilson v. The Republic**, Criminal Appeal No. 168 of 2018 (unreported) we lucidly expressed the import of that section thus:

> *"To our understanding, the...provision as amended, provides for two conditions. **One**, it allows the child of tender age to give evidence without oath or affirmation. **Two**, before giving evidence, such child is mandatorily required to promise to tell the truth to the court and not to tell lies."*

(See also **Msiba Leonard Mchere Kumwaga v. The Republic**, Criminal Appeal No. 550 of 2015, **Yusuph Molo v. The Republic**, Criminal Appeal No. 343 of 2017, **Hamisi Issa v. The Republic**, Criminal Appeal, No. 274 of 2018, and **Issa Salum Nambaluka v. The Republic,** Criminal Appeal No. 272 of 2018 (All unreported)).

In the case of **Issa Salum Nambaluka v. The Republic,** (supra) where the first prosecution witness, PW1 was a child of tender age and her evidence was received on affirmation without first being satisfied that the child witness understood the nature of oath we said:

> *"From the plain meaning of the provisions of sub-section (2) of s. 127 of the Evidence Act which has been reproduced above, a child of tender age may give evidence after taking oath or making affirmation or without oath or affirmation. This is because* ***the section is couched in permissive terms as regards the manner in which a child witness may give evidence****. In the situation where a child witness is to give evidence without oath or affirmation, he or she must make a promise to tell the truth and undertake not to tell lies.* ***Section 127 of the Evidence Act is however, silent on the method of determining whether such child may be required***

to give evidence on oath or affirmation or not."
[Emphasis added].

Thereafter, we observed that the law permits a child to give evidence either on oath or affirmation or without oath and affirmation. We further noted, the trial court should at the foremost assess whether or not a child witness understands the nature of oath and we adopted the questions to be asked by the trial magistrate or judge propounded in the case of **Geoffrey Wilson v. The Republic** (supra) that:

> *"We think, the trial magistrate or judge can ask the witness of a tender age such simplified questions, which may not be exhaustive depending on the circumstances of the case as follows:*
>
> 1. *The age of the child*
> 2. *The religion which the child professes and whether he/she understands the nature of oath.*
> 3. *Whether or not the child promises to tell the truth and not to tell lies."*

Therefore, the law permits the magistrate or judge to receive an evidence of a child upon oath or affirmation after being satisfied that the child understands the nature of oath.

In the instant appeal the trial magistrate took affirmed evidence of PW1, a child of tender age after asking her few questions on her educational background, her favourite subjects and the subjects learnt at Madrasa. We shall let the record speaks for itself thus:

> *"PW1: What is your name: Aisha Ramadhani*
> *How old are you: I am 9 years old*
> *In what grade are you: I am in grade 3*
> *What is the name of your school: Gerezani primary school*
> *What subject do you like: science*
> *When you grow what do you what to be: science teacher*
> *Do you normally go to madrasa: Yes at Bondeni*
> *What are you taught: Hadith of Prophet, have been taught about sins, telling lies, bearing false testimony and stealing*
> *What is the effect of sin: punishment.*
>
> *Court: I have been satisfied that this witness has sufficient intelligence and can give her testimony under oath."*

It is obvious from the above excerpt the trial magistrate violated the principles stipulated under section 127 (2) of the Evidence Act. She was asking question in order to satisfy herself as to whether the child had sufficient intelligence instead of probing as to whether the child understood

the nature of oath. There was no question asked by the trial magistrate geared at obtaining answers as to whether the child witness understands the nature of oath to justify the reception of her evidence. We think after the child having said that she is being taught about false testimony the trial magistrate could have taken that answer further by satisfying herself as to whether the child possesses sufficient knowledge about oath and the consequences of telling lies under oath. We do agree with the first appellant court that the questions asked were geared at establishing the intelligence of the child and actually from her answers she had sufficient intelligence of reception of her evidence but the answers did not justify the reception of her evidence on oath or affirmation. To us, like the appellant and the learned State Attorney, the questions asked by the trial magistrate did not satisfy the requirement of section 127 (2) of the Evidence Act. This was violation of the settled principle under section 127 (2) of the Evidence which justify for our interference of the concurrent findings of the two courts below. We therefore fully concur with the submission made by Mr. Kalinga that the evidence of PW1 does not have evidential value, it ought, and we hereby do, expunge that evidence from the record.

Having expunged the evidence of PW1, the remaining evidence of PW2, PW3, PW4, PW5 and PW6 cannot warrant a conviction to the appellant. The value of the evidence of PW4 was to the extent of showing a report was made to him and that he facilitated the arrest of the appellant. It has no connection with the alleged incident of the 24th December, 2015. The evidence of PW5 was simply on how she conducted the investigation of the case. It does not connect the appellant with the offence of raping PW1. Similarly the evidence of PW6 was to the effect that she examined PW1 and observed that PW1 was a habitual victim of sexual abuse. Her evidence has no connection with the appellant.

The only remaining evidence that connects the appellant with the offence of rape comes from PW3 and PW2. Unfortunately their evidence has material discrepancies. It is on evidence that PW3 was not told by PW1 as to when she was raped by the appellant because PW1 could not recall the exact date. Whereas PW2 said, she was told by PW3 that her daughter was raped on 9th January, 2016 and she received such information from PW3 two weeks after the incident. To us this is a material contradiction that corrodes the credibility of PW2 and PW3 and that is why even the trial court did not believe their evidence.

More so, the credibility of PW2 and PW3 is shaken by an apparent variance between the evidence and the charge sheet. The charge sheet alleges that the incident occurred on 24th December, 2015 while PW2 said the incident occurred on 9th January, 2016.

In the case of **Abel Masikiti v. The Republic**, Criminal Appeal No. 24 of 2015 (unreported) we emphasized:

> *"In a number of cases in the past this Court has held that it is incumbent upon the Republic to lead evidence showing that the offence was committed on the date alleged in the charge sheet which the accused was expected and required to answer. If there is any variance or uncertainty in the dates/ then the charge must be amended in terms of section 234 of the CPA. If this is not done the preferred charge will remain unproved, and the accused shall be entitled to an acquittal. Short of that a failure of justice will occur."*

Since the prosecution failed to lead evidence to show that the offence of rape was committed on the 24th December, 2015 as alleged in the charge sheet then the charge remained unproved. The variance between the charge sheet and evidence coupled with the contradictions entitled for the

appellant's acquittal. Since this finding suffices to dispose the whole appeal we shall not venture in determining the remaining grounds of appeal.

In the end, we find merit in this appeal. We accordingly quash the conviction and set aside sentence imposed upon the appellant. We order for immediate release of the appellant, **Faraji Said**, from prison unless he is otherwise lawfully held.

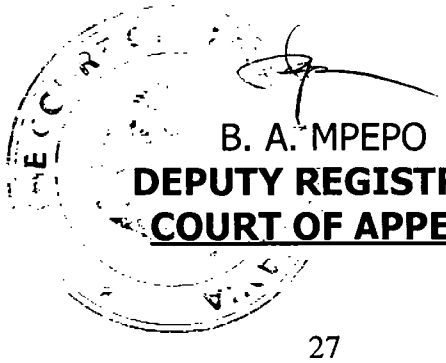
DATED at **DAR ES SALAAM** this 31st day of August, 2020.

S. A. LILA
JUSTICE OF APPEAL

B. M. A. SEHEL
JUSTICE OF APPEAL

M. C. LEVIRA
JUSTICE OF APPEAL

The Judgment delivered this 31st day of August, 2020 in the presence of the appellant in person linked – via video conference from Ukonga Prison and Ms. Joyce Nyumayo, learned State Attorney for the respondent/Republic, is hereby certified as a true copy of the original.



B. A. MPEPO
DEPUTY REGISTRAR
COURT OF APPEAL