IN THE COURT OF APPEAL OF TANZANIA

AT DODOMA

(CORAM: MUSSA, J.A., LEVIRA, J.A., And KEREFU, J.A.)

CRIMINAL APPEAL NO. 347 OF 2018

1. CLEMENCE MPONDELO
2. MAPAMBANO CHARLES .....**APPELLANTS**

VERSUS

THE REPUBLIC.....**RESPONDENTS**

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

[Shaidi, PRM (Extended Jurisdiction)]

dated the 7th day of October, 2005
in
Criminal Appeal No. 76 of 2004

JUDGMENT OF THE COURT

30th Sept, 2019 & 12th June, 2020

MUSSA, J.A.:

In their quest for justice, the appellants had to tread a long and, perhaps also, a tortious path which, quite unfortunately, was hardly of their choice or making.

The indictment into which they were later joined was, for the first time, drawn and admitted as Criminal Case No. 228 of 1999 of the District Court of Dodoma on the 26th July, 1999. In the pioneer charge sheet, the accused persons were David Neneu and Matano Ndalu who,

respectively, stood as the first and second accused persons. The alleged offence was robbery with violence contrary to sections 285 and 286 of the Penal Code, Chapter 16 of the Laws (the Code). The particulars of the charge were that on the 16th day of July 1999, around 9:00 hrs, at Mkakatika Village, within the District of Dodoma rural, the accused persons stole 63 heads of cattle, the property of Gharib Abdallah (PW1). It was also alleged that the accused persons threatened a certain Gabriel Mchiwa (PW2) with a muzzle loading gun in order to obtain the stolen heads of cattle.

On the 28th July, 1999 charge was substituted so as to specifically draft into to it, for the first time, the first and second appellants herein who stood arraigned as, respectively, the fourth and third accused persons.

On the 11th August, 1999 the charge was, once again, substituted to add in, Paulo Nicolaus and Akiey Valentino who, respectively, stood as the fifth and sixth accused persons. It is noteworthy that, in the newly substituted charge, the time of the occurrence was changed from 9:00hrs to 12:00hrs just as the stolen heads were trimmed down from 63 to 16 heads of cattle.

On the 12th October, 1999 there was yet another substitution of the charge to include the seventh accused, namely, Petro Mwanjila. The record, at page 10, indicates that it was only the seventh accused person who was asked to plead to the new charge which he denied. It is, however, significantly clear that, in the particulars of the new charge, the stolen heads of cattle, were raised from 16 to, again, 63. On account of the change, it remains, to be determined whether or not it was incumbent for the trial court to read, explain and ask all the accused persons to plead on the substituted charge.

When the case was nigh for hearing, it was, on the 29th November 1999, placed before Mr. Dyansobera, Resident Magistrate (as he then was) who presided over a preliminary hearing and later recorded the evidence of four prosecution witnesses. The Magistrate also allowed the admittance of the cautioned statements of the second appellant (exhibit P1) as well as 49 heads of cattle and a skin which were allegedly part of the stolen lot. According to the record of appeal, the admittance was done on the 16th August, 2000 and, immediately after the production of the heads of cattle and the skin, the trial Magistrate deferred the hearing of the case to the 21st August, 2000.

In, however, a sudden twist of the *coram*, on the scheduled date the case was placed before Kinemela, Resident Magistrate in the course of which the prosecutor rested the case for the prosecution and added a detail to the effect that the presiding trial magistrate has been transferred. A little later, on the 1st September 2000, the case was placed before Urassa, Principal District Magistrate, who was told by the prosecutor that the trial Magistrate has been transferred to Mbeya and that the case has been assigned to him (Urassa, PDM). The successor Magistrate then addressed the accused persons in terms of section 214 of the Criminal Procedure Act, Chapter 20 of the Laws (the CPA), whereupon each of them stated that they do not wish to have any of the witnesses who had testified before the predecessor magistrate to be re-summoned and re-heard.

Speaking of section 214 of the CPA, it is, perhaps, pertinent to digress a bit and observe, by way of a postscript, that the provision, as it stood then, was made up of subsections (1) and (2)(a) and (b). More particularly, subsection 2(a) provided thus: -

> *"(2) Whenever the provision of subsection (1) applies*

(a) *in any trial the accused may, when such other magistrate commences his proceedings, demand that the witnesses or any of them be re-summoned and re-heard and* ***shall be informed of such right by the other magistrate when he commences his proceedings.***"

[Emphasis supplied.]

Such was the law as it stood at the trial which gave rise to this appeal but, much later, Act No. 9 of 2002 was promulgated and deleted the whole of subsection (2) substituting for it with the present subsection as it presently stands. Thus, it is, presently, entirely upon the discretion of the successor magistrate to re-summon witnesses and recommence the trial should he consider it necessary. Ironically, though, the legislature did not deem it convenient to extend the amendment to section 299(1) of the CPA which retains the accused person's right to demand the re-summoning of witnesses in trials held in the High Court. With this remark, so much for our digression.

To resume the factual narrative, having complied with the provisions of section 214(1) of the CPA, as it then stood, the successor

Magistrate immediately proceeded to dismiss the charge against the first, second, fifth, sixth and seventh accused persons on a no case to answer. As for the appellants herein, a *prima facie* case was found to be established and they were, accordingly, addressed in terms of section 231 of the CPA.

As it were, the second appellant, who, as we have said, stood as the third accused during the trial, gave sworn testimony and, in addition, he called his own mother, namely, Paulina Mbwaghali (DW2) to fortify his account. On his part, the first appellant (4th accused there) also testified on oath and featured a police corporal No. C7573, namely, Dicodem (DW4) as his witness.

Having heard the defence case, the successor magistrate retired to compose the judgment which was scheduled for delivery on the 7th December, 2000. Before we reflect on the trial court's decision, it is now opportune to recapitulate the respective versions of the case for the prosecution and defence.

As we have already hinted, the prosecution featured four witnesses, a cautioned statement, 49 heads of cattle and one cattle skin

to demonstrate their case against the appellants. The evidence was to the effect that on the 16th July, 1999 Gabriel Mchiwa (PW2) drove off 63 heads of cattle for grazing at a country side near Mkakatika Village, Dodoma rural District. All the heads of cattle belonged to Gharib Abdallah (PW1), a cattle rearer resident of Bahi Sokoni locality. Around 12:00 noon, PW2 was invaded by an armed gang consisting of about eight persons. According to him, one of the invaders was wielding a muzzle loading gun whilst the others were armed with bows and arrows, bush knives and sticks. The gangsters ordered him to sit down but PW2 defied and, instead, he ran clear of the scene. By then, he had recognized the appellants amongst the gangsters. Both appellants, he said, were his village mates at Mkakatika.

Back at the Village, PW2 raised an alarm to which several persons attended. Amongst them, Donati Mchiwa (PW3) also attended. The villagers then launched a search by following the trail leff by the cattle from the scene. The hoofs trail led them to Makutupora Village where they located several persons who were skinning a carcass of one head of cattle. The immediate perception of the villagers, who were fifteen in number, was that the carcass was part of the stolen lot. According to

PW3, he recognized the appellants and one Masomba Neneu to be amongst the skinners. Soon after seeing the villagers, the latter unleashed a gunshot, following which the villagers reciprocated with arrow shots. As it turned out, the villagers had an edge over the skinners who momentarily took to their heels. PW3 told the trial court that there were some heads of cattle within the vicinity which they thereafter, drove back to Mkakatika Village. On this detail, he told the court thus:

> *"Only 15 heads of cattle were retrieved. The rest have not yet been recovered."*

As to exactly when, where and how the appellants were apprehended, the testimony of PW3 is not quite elaborate but, from the tone of his narrative, it is deducible that the second appellant was the first to be arrested and handed over to a police staff sergeant No. 984, namely, Omary (PW4). According to PW4, the second appellant implicated and facilitated the arrest of the first appellant. The police sergeant recorded a cautioned statement of the second appellant and, as we have already hinted, the same was adduced into evidence as exhibit P1. It is, however, noteworthy that the cautioned statement was

adduced into evidence without giving the appellants an opportunity to express whether or not they had an objection to its admissibility. We shall, in due course, determine the status of exhibit P1.

In his further testimony, PW4 also told the trial court that, of the 63 heads of cattle which were allegedly stolen, 50 heads of cattle were exhibited to him in the presence of the owner (PW1) at Bahi Sokoni. The remaining 13 heads of cattle, he said, are still missing. Speaking of PW1, he was later recalled to the witness box with the sole purpose of identifying the allegedly stolen cattle and a carcass skin which had been retrieved. And, this is all he told the trial court: -

> *"After I was robbed of 63 head of cattle, retrieved were 49 one was slaughtered. These heads of cattle 49 in number are here at the Primary court, Bahi. I have also this skin whose colour is mixture of black and white. I pray to tender these 49 heads of cattle and a skin as an exhibit."*

It remains to be determined whether or not such was sufficient evidence of identification of stolen properly. Incidentally, this remark

concludes our reflection on what was adduced by the prosecution in support of its case.

In his defence, the second appellant (third accused there) told the court that on the alleged fateful day he was at his residence till around 11:00 a.m. when he left to attend a ceremony at the residence of a certain Mlose Hoya. He stayed there drinking up to 4:00 p.m. when he returned home. The following days were uneventful up until the 23rd July, 1999 around 3:00 p.m. when PW2 and a certain Mateleka Nolo visited him at his residence. Upon their arrival, PW2 who happens to be his brother-in-law informed him that his sister (3rd appellant's) was seriously ill and advised him to take their company so as to visit his sister at the residence of PW2. The second appellant obliged but, soon after arrival at the residence of PW2, he was put under restraint on allegations of cattle theft. The appellant told the trial court that he was there and then tied against a house pole and thoroughly beaten by PW2, PW3 and a certain Michael Mchiwa. He remained under restraint and was tortured up to the 25th July, 1999 when he was taken to the police onwards to the trial court where he was formally arraigned on the 28th July, 1999. He continually denied involvement in the alleged

robbery and, as already seen, his defence was that of an *alibi*. As regards exhibit P1, the second appellant categorically disowned the document.

On his part, the first appellant (4th accused there) also raised an *alibi*. His evidence was to the effect that on the 13th July, 1999 he travelled to Nguji Village, Mundemu Division to visit his father. He stayed at that village up until the 19th July, 1999 when he returned to Mkakatika. The first appellant summed up his testimony by completely disassociating himself from the robbery occurrence.

On the totality of the evidence, the successor magistrate was satisfied that the case against the appellants has been established beyond all reasonable doubts. They were, accordingly, found guilty, convicted and each was sentenced to serve a term of thirty years imprisonment in a judgment that was pronounced on the 7th December, 2000.

The appellants were minded to appeal but, we should suppose, by taking that option, they hardly expected to be drawn into the series of disquieting misfortunes which characterised this appeal. To begin with,

they soon realized that they were out of time and, given the shortcoming, on the 15th July, 2004 they preferred an application to the High Court for it to extend time within which to lodge the appeal belatedly. Surprisingly, the application was, on the same date, placed before S. N. Mafuru, Senior Resident Magistrate with extended jurisdiction. Our bewilderment arises from the fact that, upon a thorough search on the record of the case, we did not locate any order of the High Court which transferred the application from it to the referred magistrate. The application was, nevertheless, heard and, on the 21st September, 2004 the magistrate granted the application with an order that the petition of appeal be lodged within fourteen days from the date of the order.

Sequel to the order, a petition of appeal was lodged but, going by the record of appeal at page 81-83, no date was indicated thereon. It is, however, on record that the appeal which was lodged in the High Court was, on the 15th October, 2004 transferred, for the first time, to the resident magistrates' court, to be heard by the already mentioned S.N. Mafuru, SRM with extended jurisdiction. Having heard the oral

submissions from either side on the 5th February, 2005 the magistrate deferred delivery of the judgment to the 5th April, 2005.

A good deal later, on the 2nd September, 2005 the matter was placed before another presiding officer, namely J.M. Somi, Principal Resident Magistrate with extended jurisdiction who re-scheduled the date of judgment delivery to the 7th October, 2005. No reasons whatsoever were assigned for the change of the presiding magistrate. True to his promise, on the referred date, the successor magistrate delivered judgment in which he dismissed the appeal in its entirety.

Aggrieved by the decision, on the 17th August, 2011 the appellants instituted an application to be granted extension of time within which to belatedly file a Notice of Appeal to the Court of Appeal so as to impugn the October 7th decision of the magistrate with extended jurisdiction. Once again, the application was lodged in the High Court and not the resident magistrates' court. The same was admitted by the judge-in-charge (Shangali, J.) on the 12th September, 2011. It was later placed before Kwariko, J., as she then was, who granted it on the 12th October, 2011 with an order that the appellants should lodge the desired Notice of Appeal within 14 days from the date thereof.

Two separate Notices of Appeal were duly filed by the appellants on the 18th October, 2011. At the hearing of the appeal before the Court, the respondent Republic took an objection with respect to the September 21st, 2004 decision which was taken by honourable S. N. Mafuru, Senior Resident Magistrate with extended jurisdiction. As we have already intimated, in that decision the learned Magistrate extended time to the appellants with which to file their appeal belatedly. The thrust of the preliminary objection was that the learned Senior Resident Magistrate had no jurisdiction to hear and determine the application.

As it were, the point of objection was upheld in a judgment which was pronounced by the Court on the 21st March, 2013 (Rutakangwa, Oriyo and Mmilla, JJ.A.), whereupon the impugned decision was nullified as well as all the consequential decisions and the appeal was, accordingly, struck out. It was further directed that the application for extension of time which was, upon nullification, pending before the High Court should be heard expeditiously. Obviously, the referred transfer order of the High Court dated the 15th October, 2004 also perished in the wake of the nullification just as was the case with the October, 7th

decision of Somi, PRM and the High Court Order dated the 12th October, 2011 which were all taken down the drain.

Despite the pronouncement, by the Court that the application for extension of time was still pending in the High Court, on the 20th April, 2013 the appellants, nevertheless, preferred, by way of a chamber summons, an application for extension of time to file their desired appeal under section 361(2) of the CPA.

The application was placed before Mkuye, J., as she then was, and, being unopposed, the same was granted on the 31st July 2013 with an order that the appellants should lodge the desired appeal within 14 days from the date thereof. As it turned out, two respective petitions of appeal involving the appellants were lodged and the appeal was admitted and assigned to the same Mkuye, J., on the 20th June, 2014. Several mentions followed therefrom before the judge-in-charge gave the following order: -

> *"In terms of the provisions of S.45(2) of the Magistrates Courts Act, Chapter 11 R.E. 2002 I hereby transfer this case to be heard by H.E.*

SHAIDI Principal Resident Magistrate, Extended Jurisdiction.

Date: 16/10/2015

Sgd.

JUDGE-IN-CHARGE"

So the appeal was, once again, transferred to the Resident Magistrate's Court and, having heard the appeal, on the 23rd October, 2015 the learned Principal Resident Magistrate (extended jurisdiction) dismissed the same in its entirety.

Dissatisfied, the appellants preferred an appeal to this Court but, as fate would have it, upon being heard on the 26th February, 2018 the same was struck out on account of being accompanied by a defective Notice of Appeal (Mbarouk, Mziray and Mwambegele, JJ,A.). The appellants had to start afresh but, unfortunately, once again, they got off on the wrong foot in that their application to re-lodge the Notice of Appeal to this Court was filed in the High Court and not the RM's court with extended jurisdiction which heard and determined the appeal.

As it were, on the 5th September, 2018 the unopposed application was heard and granted (Kalombola, J.) with an order that the Notices of Appeal should be lodged within 21 days from the date thereof. Obedient to the order, the appellants duly filed their respective Notices of Appeal on the 19th September, 2018. Subsequently, on the 11th April, 2019 the appellants lodged their respective memoranda of appeal for the Court's consideration.

When, eventually, the matter was placed before us for hearing on the 27th September, 2019 the appellants were fending for themselves, unrepresented, whereas the respondent Republic had the services of Mr. Morice Sarara and Janeth Mgoma, both learned State Attorneys.

Earlier on the 24th September, 2019 Ms. Mgoma had lodged a Notice of preliminary objection to the effect that the appeal is incompetent for contravening the provisions of section 11(1) of the Appellate Jurisdiction Act, Chapter 141 of the Laws (AJA). Elaborating the point of objection, Ms. Mgoma informed the Court that Kalombola, J. erroneously granted the appellants extension of time to file the appeal out of time in a matter which originated from and was determined by a subordinate court with extended jurisdiction. In

response, the appellants had nothing material to offer apart from complaining that the respondent is applying delaying tactics which should be discounted especially since their appeal has been dragging on the Court corridors for a considerable length of time.

Having heard either side, we, at once, sustained the preliminary objection and quashed the impugned order of Kalombola, J. in the exercise of our powers of revision under section 4(2) of AJA. Having done so, we, *suo motu,* in terms of Rule 47 of the Tanzania Court of Appeal Rules, 2009 (the Rules) extended time to the appellants to immediately file fresh Notices of appeal and, accordingly, the appeal was deferred to be heard on the 30th September, 2019. We, however, reserved our reasons for the order which we now briefly give.

The impugned order of Kalombola, J. was preceded by the extracted order of the transfer of the appeal which was made by the Judge-in-charge on the 16th October, 2015. That being the position, the application by the appellant seeking extension of time to file their Notices of Appeal to the Court had to be governed by section 11(1) of AJA which goes thus: -

"Subject to subsection (2), ***the High Court or, where an appeal lies from a subordinate court exercising extended powers, the subordinate court concerned****, may extend time for giving notice of intention to appeal from the judgment of the High Court or of the subordinate court concerned, for making an application for leave to appeal or for a certificate that the case is fit case for appeal, notwithstanding that the time for giving the notice or making the application has already expired."*

[Emphasis supplied.]

Although the foregoing provision concurrently confers on the High Court and a subordinate court concerned to exercise the undermentioned powers, once an appeal is transferred to be heard by a subordinate court, nothing remains in the High Court registry with respect to that appeal. As was reiterated by the Court in the unreported Criminal Appeal No. 519 of 2015 – **Bahati Ndunguru @ Moses V. The Republic**: -

"Where a case is transferred to the Resident Magistrate's Court so as to be tried by a Resident

Magistrate with extended jurisdiction, nothing remains in the High Court. The hearing and determination of that case is to be done in that court and the appeal therefrom lies directly to Court."

Corresponding remarks were made in another unreported Criminal Appeal No. 333 of 2016 **Lukelo Uhahula V. The Republic** where the court observed: -

"In this regard, it was improper for the High Court to entertain the application for extension to file the notice of appeal on a matter which was not in the High Court Registry following its transfer to the Resident Magistrate's court."

The impugned order of Kalombola, J., so to speak, befell on a similar fate. But, we should, in contrast, distinguish the earlier instance where Mafuru, SRM (extended jurisdiction) heard and determined the application for extension of time in the absence of a transfer order which, as we have seen, came much later with respect to the appeal as distinguished from the application. Her hearing and determination of the application was, in effect, a wrongful assumption of jurisdiction and the consequential orders she made were properly nullified. With this

remark, so much for the reasons behind the order of the Court dated the 2nd September, 2019. We now move to consider the merits of the appeal.

In their respective memoranda of appeal, the appellants have raised similar criticisms on the two courts below **first**, for violating the provisions of section 214(1) of the CPA; **second**, for non-consideration of their respective defence case; **third**, for not finding that the identification of the appellants fell short and; **fourth**, for improperly adducing into evidence the cautioned statement of the second appellant.

In their respective complaints on the non-compliance of section 214(1) of the CPA, the appellants fault the trial Court for not informing them of their right to re-summon witnesses when the case changed hands from Kiwanuka, Principal District Magistrate, to Urassa, Principal District Magistrate. We had to call for the original record of the case and, from it, it was palpably certain that the name of E. B. Kiwanuka, PDM was wrongly entered in the printed record at pages 48, 49 and 50. In fact, the matter was wholly presided by Urassa, PDM who, as we

have hinted upon, duly complied with the provisions of section 214 as they stood at the time of the trial.

As regards the **fourth** grievance concerning exhibit P1, both learned State Attorneys conceded before us that the cautioned statement was improperly adduced into evidence on account that the trial, court never gave the appellants the opportunity to express whether or not they were objecting to the admission of the document. We entirely agree and, for that reason, we straightaway expunge exhibit P1 from the record of the evidence

The other grievances were canvassed against by both learned State Attorneys but, for the moment, we should first address a non-compliance which was not raised by the appellants but which undermined the entire trial. The non-compliance came about on the 12th October, 1999 prior to the recording of the evidence, when the prosecution substituted the charge to add the 7th accused person. As we have hinted upon, it is palpably vivid from the record of the appeal that it was only the 7th accused who was addressed on the charge and required to plead to it. The rest of the accused including the appellants were not, as such, addressed on it. Yet, as we have, again, intimated

the, substituted charge introduced a new and significant detail on the particulars to the effect that the stolen heads of cattle were raised from 16, which were on the previous charge, to 63.

The provisions of section 234(2)(a) of the CPA imperatively require that where a charge is altered or substituted, the court is obliged to call upon the accused person(s) to plead to the altered charge. In the case of **Thuway Akonaay V. Republic** [1987] TLR 92 9CA) it was held that such a plea is mandatory and failure to do that renders a trial a nullity. To say the least, on account of the non-compliance in the matter at hand, we have no viable option than to nullify the entire trial and first appellate proceedings in terms of section 4(2) of the AJA.

Having done so, we need not belabor on the other grievances raised by the appellants. But, as a consequence, we seriously pondered whether or not we should order a new trial and, in this regard, we propose to reiterate what was observed by the Court in the unreported Criminal Appeal No. 255 of 2013 – **Shaban Abdallah V. Republic**: -

"It is not the rule of the thumb that a retrial will always be ordered when the original trial is illegal or defective. Each case will depend on its own facts and circumstances. Indeed, an order of retrial should only be made where the interest of justice require."

We actually, painstakingly recapitulated the background of the matter as well as the nature of the evidence so as to enable ourselves to determine whether such course of action is fitting in the circumstances of this case. It should be appreciated that the appellants were convicted on the 7th December, 2000 and, from that time up to this moment they have been serving a prison term of thirty years. We have demonstrated how the appellants have, throughout, been on the Court corridors in an effort to impugn their conviction and sentence. Their effort, we have also seen, was encountered by a host of misfortunes some of which could not be blamed on them. Given the circumstances, it will, certainly, defeat the interests of justice if we order a re-trial more than nineteen years from the date of the conviction. The appellants have served more than half of their prison term and, in the circumstances, an order for a new trial is not fitting.

Besides, it is noteworthy that the trial court's conviction as well as the first appellate's sustainance of the conviction depended entirely, on the evidence of visual recognition of the appellants by PW2; the second appellants' cautioned statement and; the identification by PW2 of 49 heads of cattle and a skin which were allegedly part of the stolen lot.

We have already discounted the cautioned statement for the reason that it was improperly adduced into evidence. As regards the evidence of visual recognition, PW2 did not quite advert to some of the guidelines enunciated by the Court in the celebrated case of **Waziri Amani V. The Republic** [1980] TLR 250. He did not, for instance, disclose the time he had the appellants under observation; the distance at which he observed them and; neither did he state the attire the appellants were wearing. To this end, we take the position that PW2's evidence of recognition fell short, the more so as the witness was testifying to a swiftly moving event. It matters not that this was a case of recognition. As the Court observed in **Issa Mgara V. Republic**; Criminal Appeal No. 37 of 2005 (unreported) where it stated: -

> *"...even in recognition cases where such evidence may be more reliable than identification*

of a stranger, clear evidence on source of light and its intensity is of paramount importance. This is because, as occasionally held, even when the witness is purporting to recognize someone whom he knows, as was the case here mistakes in recognition of close relatives and friends are often made."

Concerning the identification of the stolen cattle, it is now settled that a detailed description by giving special marks of the stolen items has to be made before such exhibits are tendered in court in order to avoid doubts on the correctness of the allegedly stolen items. In the case of **Mustapha Darajani V. Republic**, Criminal Appeal No. 242 of 2015 (unreported), in similar circumstances, this Court stated as follows: -

"In such cases, description of specific mark to any property alleged stolen should always be given first by the alleged owner before being shown and allowed to tender them as exhibits."

Unfortunately, in the matter at hand, PW1 simply made a blant statement that the heads of cattle were his without more. In the circumstances and for the reasons stated hereinabove, we are satisfied

that the prosecution case was after all, not proved beyond reasonable doubt. Having nullified the entire proceedings, the conviction and sentence are quashed and we order the immediate release of the appellant from prison unless otherwise lawfully held.

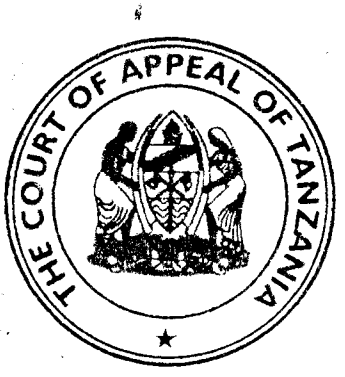
DATED at **DAR ES SALAAM** this 30th day of October, 2019.

K. M. MUSSA
JUSTICE OF APPEAL

M. C. LEVIRA
JUSTICE OF APPEAL

R. J. KEREFU
JUSTICE OF APPEAL

The Judgment delivered on 12th day of June, 2020 in the presence of the Appellants in person and Ms. Salome Magesa, Senior State Attorney and Mr. Salimu Msemo, learned State Attorney for the respondent / Republic, is hereby certified as a true copy of the original.



G. H. HERBERT
DEPUTY REGISTRAR
COURT OF APPEAL