IN THE COURT OF APPEAL OF TANZANIA

AT ZANZIBAR

(CORAM: WAMBALI, J.A., KEREFU, J.A. And GALEBA, J.A.)

CRIMINAL APPEAL NO. 62 OF 2023

MSHENGA SHAIBU KHAMIS ..... APPELLANT

VERSUS

DIRECTOR OF PUBLIC PROSECUTIONS ..... RESPONDENT

(Appeal from Judgment of the High Court of Zanzibar at Vuga)

(Mahmoud, J.)

dated the 21st day of April, 2022

in

Criminal Appeal No. 21 of 2021

JUDGMENT OF THE COURT

02nd & 12th June, 2023

KEREFU, J.A.:

This is the second appeal by Mshenga Shaibu Khamis, the appellant, who was before the Regional Court of Zanzibar at Vuga charged with two counts. The first count was on the offence of armed robbery contrary to section 280 of the Penal Act No. 6 of 2018 of the laws of Zanzibar and the second count was on the offence of rape contrary to sections 108 (1), (2) (b) and 109 (1) of the same law. On the first count, it was alleged that, on

9th October, 2020 about 21:30 hours at Mwera Mchikichini, Western District 'A', Urban West Region, the appellant stole a sum of TZS 550,000.00 the property of the victim (name withheld) and immediately before and after stealing, he used a knife to threaten her in order to obtain and retain such property. On the second count, it was alleged that, on the same date and place about 21:35 hours, the appellant had unlawful carnal knowledge of the victim, a woman of thirty-four (34) years of age.

The appellant pleaded not guilty to the charge and therefore, the case had to proceed to a full trial. In an attempt to establish its case, the prosecution lined up four witnesses namely; the victim (PW1), Jina Nyange Ramadhani (PW2), F.6170 D/CPL Hassan (PW3) and Mwanaisha Bilali Ramadhani (PW4). The evidence of the prosecution was supplemented by one documentary exhibit, the Police Form No. 3 (the P.F.3) which was admitted in evidence as exhibit P1. On his part in defence, the appellant relied on his own evidence as he did not call any other witnesses.

Before canvasing the points of grievances, we find it desirable first, to give essential factual background to the appeal as obtained from the record of appeal. It goes thus; the victim, who testified as PW1 was residing at Kinuni Mchikichini area together with her two children namely

Ibrahim and Ali. On 9th October, 2020 at 21:30 hours, a guy, who introduced himself as Kassim, the name of Ali's friend, knocked on the front door of her house and told her that Ali had fallen down at a place known as '*Maskani kwa Silima.*' Upon opening the door to go to the scene to rescue her child, PW1 found the guy who covered his face with a black t-shirt. The said guy, pushed PW1 inside the house and ordered her to handover everything she had. PW1 stated that, initially, she refused to obey the said order and, suddenly, the guy placed a knife on her throat and threatened to stab her. PW1 screamed for help but her neighbours could not come to her aid as her house was situated a bit far from their houses.

Later, and for the purposes of rescuing herself, PW1 gave the said guy a total of TZS 500,000.00 she had collected from '*upatu*' members. However, instead of leaving her alone, the guy demanded to have sexual intercourse with her, which she resisted. The guy, threatened to stab her on the ribs by using the same knife. He then pushed her on the bed, undressed her, sucked her breasts and raped her. After he had ejaculated, and while both of them were naked, the said guy placed a knife on PW1's shoulder, took her to the toilet which was located outside her house and

ordered her to clean herself. Thereafter, they returned to the room where he raped her for the second time. Upon his satisfaction, he again, under the same threat, took PW1 to the toilet for the same purpose of cleaning herself.

A moment later, they came back to the room where the guy turned on his mobile phone flashlight to locate his shorts (*bukta*) which he put on and ran away. That, during the said incident, PW1 was alone in the house as her two children went to attend a marriage ceremony elsewhere.

PW1 went on to state that the said guy was not a stranger to her as she recognized him on the spot through his voice and appearance because they lived in the same neighborhood. She added that, when they went outside, she managed to identify him through the aid of the light which was generated from the solar panel originated from the neighbouring house. That, inside the room, she was assisted by the guy's phone flashlight he used to search for his *bukta.* It was her further testimony that, prior to the incident, she had a good relationship with the guy as he was a friend of her son Ali and she had never quarreled with him.

PW1 stated further that she reported the matter to the *'Sheha'* and his members. Then, PW2 who was the Deputy *Sheha* came to her house

with other people and took her to the *Sheha* member. Subsequently, the neighbours reported the matter to the Police who allowed them to arrest the appellant and bring him to the Police Station on the same night. PW1 testified further that she went to the hospital, after three (3) days for medical examination after she had obtained the P.F.3.

PW1's account was supported by PW2, who testified that she resides in the same neighborhood and she knew both, PW1 and the appellant as they were her neighbours. That, on the fateful night around 21:45 hours she received a phone call from a member of the *'Shehia'* Development Committee who informed her about the incident and asked her to go to the scene. Upon receiving such information, PW2 informed her neighbours and tenants and afterwards, they all went to the scene. Upon arrival, PW1 told them that the appellant had entered into her house, robbed her money TZS 530,000.00 and then, raped her twice. PW2 stated further that PW1 told them that she recognized the appellant on the spot because of his stammering voice. PW2 added that, they recognized the appellant's t-shirt which he left at the scene. PW2 stated that she reported the matter to the police who allowed them to arrest the appellant. Thus, they went to the

appellant's house, arrested and handed him over to the police together with his t-shirt.

In his defence, although, the appellant admitted to be familiar with PW1 as they lived in the same neighborhood, he dissociated himself from the accusations levelled against him, as he contended that PW1 gave an untrue story before the trial court. He, in particular, asserted that, he was framed up by PW1 due to the existing grudges between them after he failed to assist her to obtain a job at the Zanzibar Park Zoo, where he was working then. DW1 stated further that, at one point, PW1 asked him to lend her TZS 5,000.00 which he did not give, as at that time, he had no money. That, on another occasion, PW1 asked for TZS 20,000.00 which he, again, did not give her.

After a full trial, the trial court accepted the version of the prosecution's case and specifically, placed much reliance on PW1, the victim and best witness whose evidence was found to be truthful and credible, that it linked the appellant to the two offences he was charged with. Thus, the appellant was found guilty, convicted on both counts and sentenced to serve ten (10) years imprisonment term for the first count and thirty (30) years imprisonment term for the second count together

with payment of TZS 2,000,000.00 to the victim as compensation. The two custodial sentences were ordered to be served at the Offenders Education Centre and to run concurrently.

Aggrieved, the appellant unsuccessfully appealed to the High Court where the trial court's conviction and sentence were upheld.

Undaunted and still protesting his innocence, the appellant lodged the current appeal. In the memorandum of appeal, he raised six grounds which can conveniently be paraphrased as follows: **First**, that the appellant's conviction was based on incredible and unreliable evidence of PW1; **second**, that the first appellate court erred in law in convicting him by relying on the evidence of PW1 which was taken contrary to sections 4, 5 and 6 of the Evidence Act No. 9 of 2016 (the Evidence Act); **third**, that there was substantial discrepancy between the particulars of charge and the evidence on record; **fourth**, that the evidence adduced by prosecution witnesses was hearsay thus inadmissible; **fifth**, that the failure by the prosecution to tender the appellant's t-shirt that was alleged to have been found by PW2 at the scene of crime had weakened the prosecution case; and **sixth**, that the prosecution did not prove its case to the required standard.

At the hearing of the appeal, the appellant appeared in person without legal representation whereas Mr. Mohammed Saleh Iddi, learned Principal State Attorney assisted by Mr. Said Ali Said, learned Senior State Attorney represented the respondent, the Director of Public Prosecutions.

When invited to argue his appeal, the appellant adopted his grounds of appeal and preferred to let the learned Principal State Attorney to respond first, but he reserved his right to rejoin, if the need to do so would arise. In the event, we invited Mr. Iddi right away to commence his submission.

On taking the stage, Mr. Iddi from the outset, declared the respondent's stance of opposing the appeal by fully supporting the conviction as well as the sentence meted out against the appellant. He then indicated that he will argue the first, second and fourth grounds conjointly and the remaining grounds, i.e third, fifth and sixth, separately.

In responding to the first, second and fourth grounds, he contended that PW1 was reliable and credible witness in this case. Relying on the principle established by this Court in proving sexual offences in **Selemani Makumba v. Republic** [2006] T.L.R. 379, Mr. Iddi argued that, the evidence of PW1, the victim, was the best evidence to prove the charge

laid against the appellant. To clarify on this point, he referred us to pages 6 to 7 of the record of appeal and contended that, in her evidence, PW1 clearly explained on how the appellant entered her house, threatened her by a knife, robbed her money and then raped her twice. It was his argument that the evidence of PW1 could be used by the trial court to mount the appellant's conviction even without any other corroboration, as long as the court is satisfied that the witness is telling the truth. He, however argued that, in the instant appeal, the evidence of PW1 was corroborated by the evidence of PW2 and PW4. He added that, all these witnesses gave direct evidence and not hearsay evidence as claimed by the appellant.

On the visual identification of the appellant at the scene of crime, Mr. Iddi argued that, the appellant was properly identified by PW1 as she knew her prior to the incident because they were neighbours. He referred us again to page 7 of the same record where PW1 enumerated six factors which assisted her to identify the appellant at the scene, that:

> *"(i) The appellant was not a stranger to her as they were living in the same area;*
> *(ii) She recognized the appellant through his voice and physical appearance;*

(iii) Upon removing his t-shirt that covered his face, she managed to see his face clearly;

(iv) While they were naked during the material time, she saw his body properly;

(v) When they went to the toilet which was located outside the house, she managed to identify him by assistance of the light which was generated from the solar panel originated from the neighbouring house. lighting from the neighbouring house; and

(vi) When they went in the room, after the second round, she identified him by aid of appellant's phone flashlight which he used to search for his bukta."

Although, Mr. Iddi admitted that identification by voice is the evidence of weakest kind and most unreliable, he argued that it was correct for the lower courts to rely on that evidence because the appellant was known to PW1 prior to the incident. In addition, although Mr. Iddi also admitted that, in her evidence, PW1, apart from narrating that she identified the appellant with the aid of the light which was generated from the solar panel originated from the neighbouring house, she did not describe the intensity of the said light and/or the size of the area

illuminated, he still insisted that the appellant's evidence of visual identification at the scene of crime was watertight and urged us to find that the first, second and fourth grounds of appeal have no merit.

Likewise, on the third ground, although, Mr. Iddi readily conceded that there was variance between the particulars of the charge and the evidence of PW1 and PW2 on the amount of money alleged to have been stolen, he relied on our previous decision in **Dickson Elia Nsamba Shapwata and Another v. Republic,** Criminal Appeal No. 92 of 2007 [2008] TZCA 17: (30 May 2019: TANZLII) and strongly argued that the pointed out discrepancy is a minor contradiction which did not go to the root of the matter to weaken the prosecution case and affect the credibility of PW1 and PW2. It was his argument that the evidence of PW1 which was relied upon by both courts below, cured the said defect as the trial court found that the amount of the money stolen was TZS 500,000.00 and not TZS 550,000.00 indicated in the charge or TZS 530,000.00 mentioned by PW2. He added that, since the charge was properly crafted and the particulars of the offences were very clear to the extent of enabling the appellant to understand the nature of the offence and marshal his defence,

there was no prejudice caused on his part. He thus urged us to also find that the third ground is devoid of merit.

Responding to the fifth ground on the failure by the prosecution to tender the appellant's t-shirt alleged to have been found by PW2 at the scene of crime, Mr. Iddi urged us to find that the said ground has no merit as he contended that there is no law which require the prosecution to produce and tender, during the trial, all and each item found and obtained at the scene of crime.

On the sixth ground, Mr. Iddi stressed that the prosecution case was proved beyond reasonable doubt through the evidence of PW1, PW2 and PW4. Responding to the issue raised by the Court on the failure by the prosecution to summon the neighbours who were alleged to have arrested the appellant and the police officer(s) who received and interviewed him at the police station, Mr. Iddi cited section 150 of the Evidence Act and argued that, the said provision does not require a specific number of witnesses to prove a fact, what is required is the quality of evidence and their credibility. To support his proposition, he referred us to the case of **Azizi Abdallah v. Republic** [1992] T.L.R. 71 and then insisted that, since in the instant appeal, the prosecution case was proved beyond reasonable

doubt through the evidence of PW1, PW2 and PW4, the prosecution found it unnecessary to summon other witnesses. He thus urged us to also find that the sixth ground is devoid of merit. In conclusion and on the strength of his submission, he urged us to find the appellant's appeal unmerited and dismiss it in its entirety.

In a brief rejoinder, the appellant did not have much to say other than insisting that PW1 gave an untrue story before the trial court due to the existing conflict between them. He thus urged us to allow the appeal and set him at liberty.

On our part, having carefully considered the grounds of appeal, the submissions made by the parties and the record of appeal before us, the main issue for our determination is whether the appellant's conviction was based on strong prosecution case. However, before doing so, it is crucial to state that, this being a second appeal, under normal circumstances, we can only interfere with concurrent findings of the lower courts if there are mis-directions or non-directions on evidence with a view of making its own findings. See for example **Director of Public Prosecutions v. Jaffari Mfaume Kawawa** [1981] T.L.R. 149 and **Mussa Mwaikunda v. The**

Republic [2006] T.L.R. 387. We shall be guided by the above principle in disposing this appeal.

We find it appropriate to start with the third ground on the apparent variance between the particulars indicated in the charge on the amount of money alleged to have been stolen on the fateful date and the evidence of PW1 and PW2. In determining this ground, we find it apposite to reproduce the particulars of the offence as per the first count found at page 1 of the record of appeal, which reads as follows:

> ***"PARTICULARS OF THE OFFENCE***
>
> *MSHENGA SHAIBU KHAMIS on 9th October, 2020 about 21:30 hours at Mwera Mchikichini, Western District 'A', Urban West Region, did steal a sum of* ***TZS 550,000.00*** *the property of the victim and immediately before and after stealing, he used a knife to threaten her in order to obtain and retain such property." [Emphasis added].*

In her evidence, PW1, among other things, at page 6 of the record of appeal testified that:

> *"For the purpose of saving my life, I went to the cupboard drawer and took from it a sum of shillings five hundred thousand* ***(500,000/-)*** *I had collected for "upatu" and handed over the same to the said*

guy in order that he can release me." [Emphasis added].

Then, at page 13 of the same record, PW2 stated that:

> *"On arrival PW1 told us that the guy whom she recognized on the spot as Mshenga Shaibu entered her house, robbed her money amounting shillings* ***530,000/-*** *(Five hundred and thirty thousand shillings)..." [Emphasis added].*

From the above extracts, it is clear that the stolen amount of money mentioned by PW1 and PW2 in their evidence is at variance with the amount indicated in the charge. Pursuant to section 219 (1) of the Criminal Procedure Act No. 7 of 2018 of the laws of Zanzibar, when such a situation happens, the charge is supposed to be amended. The said section provides that:

> *"219 (1) Where at any stage of a trial before the close of the case for the prosecution, it appears to the court that the charge is defective, either in substance or form, the court may make such order for the alteration of the charge either by way of amendment of the charge or by substitution or addition of a new charge as the court thinks necessary to meet the circumstances of the case.*

(2) Where, at any stage of the trial before the close of the case for the prosecution, it appears to the prosecutor that the charge is defective, either in substance or form, the prosecutor may apply for a permission of the court to alter the charge."

The above provision provides for steps to be taken when there is variance between the charge and the evidence on record. It confers powers on the trial court to allow amendment of the charges to meet the pertaining circumstances. Therefore, in the case at hand, after the prosecution had noted that there was apparent variance between the particulars of the charge and evidence in respect of the amount of money alleged to have been stolen, it was necessary for them to seek leave to amend the charge under subsection (2) of the above provision but, unfortunately, that was not done. It is therefore our considered view that, the failure by the prosecution to amend the charge to make it consistent with the evidence on record has weakened its case as the charge is deemed not to have been proven to the required standard. With profound respect, we are unable to agree with the submission advanced by Mr. Iddi that the said anomaly was cured by the evidence of PW1 as the said

omission is fatal and prejudicial to the appellant leading to serious consequences to the prosecution case as we have stated in our previous decisions. See for instance the cases of **Mohamed Juma @ Mpakama v. Republic,** Criminal Appeal No. 385 of 2017 [2019] TZCA 518: (26 February 2019: TANZLII), **Issa Mwanjiku @ White v. Republic,** Criminal Appeal No. 175 of 2018 [2020] TZCA 1801: (6 October 2020: TANZLII) and **Hussein Kausar Rajan v. Republic,** Criminal Appeal No. 670 of 2020 [2022] TZCA 571: (22 September 2022: TANZLII). Specifically, in **Issa Mwanjiku @ White** (supra), when the Court dealt with an akin situation where the particulars of the charge were at variance with the evidence on record in relation to the type of properties that were alleged to have been stolen from the complainant, it stated that:

> *"We note that,* ***other items mentioned by PW1 to be among those stolen*** *like, ignition switches of tractor and Pajero* ***were not indicated in the charge sheet.*** *In the prevailing circumstances of this case,* ***we find that the prosecution evidence is not compatible with the particulars in the charge sheet to prove the charge to the required standard."*** *[Emphasis added].*

Again, in **Hussein Kausar Rajani** (supra), the Court stated that:

"In this regard, the failure of the trial court to invoke the said provisions amid the apparent variance in the evidence of PW1 and PW2 and the charge sheet with regard to the nature and type of the stolen items and their requisite values left the charge unproved because the particulars were not brought in line with the evidence on record."

It is noteworthy that, in the above cited cases, the Court dealt with provisions of section 234 (1) of the Criminal Procedure Act [Cap. 20 R.E. 2019] of the Laws of Tanzania which is in parametria with section 219 of Criminal Procedure Act No. 7 of 2018 analyzed above. Therefore, even in the instant appeal, the failure by the prosecution to amend the charge to make it consistent with the evidence on record had rendered it not to have been proved, on that aspect, to the required standard. In the circumstances, we find the third ground of appeal to have merit.

We now turn to determine the first, second and fourth grounds where the appellant's main complaint is on the credibility of PW1. The law regarding the credibility of witnesses is settled that every witness is entitled to credence unless there are cogent reasons not to believe that witness - see: **Goodluck Kyando v. Republic**, [2006] T.L.R. 363. Moreover, on

appeal the credibility of a witness can be gauged through coherence and consistence of his or her testimony and its relation to the evidence of other witnesses. In the case of **Elisha Edward v. Republic**, Criminal Appeal No. 33 of 2018 [2021] TZCA 397 (24 August 2021: TANZLII) the Court restated the position set in its previous decision in **Shabani Daudi v. Republic**, Criminal Appeal No. 28 of 2000 (unreported) when emphasizing on assessment of credibility of witnesses, that:

> "*Credibility of a witness is the monopoly of the trial court but only in so far as demeanour is concerned. The credibility of the witness can also be determined in two other ways. One, when assessing the coherence of the testimony of that witness and two, when the testimony of that witness is considered in relation to the evidence of other witnesses including that of the accused person. In those two occasions, the credibility of a witness can be determined even by a second appellate court when examining the findings of the first appellate court.*"

In the instant appeal, it is on record that, in convicting the appellant, the trial court relied on the evidence of PW1 and the decision of the Court in **Selemani Makumba** (supra). It found that the evidence of PW1, the

victim, was reliable and the best evidence in cases of this nature. While we agree that the above is the correct position of the law, we hasten to remark that, the same does not mean that such evidence should be taken wholesome, believed and acted upon to convict the accused person without considering its credibility and other circumstances surrounding the case. Therefore, since in the case at hand, apart from the word of PW1 that she was raped by the appellant, there being no other eye witness to the incident of rape, assessing her credibility is crucial in determining the reliability of her evidence on how she identified the appellant at the scene of crime.

We wish to start by stating that, the law is settled that visual identification should only be relied upon when all possibilities of mistaken identity are eliminated and the court is satisfied that the evidence before it is absolutely watertight. The principles to be taken into account were enunciated by this Court in the famous case of **Waziri Amani v. Republic** [1980] T.L.R. 250 to include: **One,** the time the witness had the accused under observation; **two,** the distance at which the witness observed the accused; **three,** the conditions under which observation occurred, for instance, whether it was during day or night time and whether there was

good or poor light at the scene; and **four,** whether the witness knew or had seen the accused before or not. For similar stance, see also cases of **Issa Mgara @ Shuka v. Republic,** Criminal Appeal No. 37 of 2005 (unreported) and **Byamtonzi John @ Buyoya & Another v. Republic,** Criminal Appeal No. 289 of 2019 [2021] TZCA 385 (18 August 2021: TANZLII).

Applying the above guidelines to the instant case, we hasten to remark that, we agree with the appellant that PW1 was not a credible witness as her evidence on the visual identification of the appellant at the scene of crime was not watertight. We shall demonstrate.

In her testimony found at page 6 of the record of appeal, although, PW1 testified that she knew the appellant prior to the incident and recognized him on the spot by his voice and appearance, she failed to mention his name immediately, as for quite sometimes, she referred to him as 'a guy' and she did not even describe his physique and/or any special marks or symbols which enabled her to recognized him to rule out the possibility of mistaken identity. It is also clear that in her testimony, apart from alleging that she recognized the appellant by voice for being familiar to her, PW1 did not explain that the appellant had a stammering voice. The

aspect of the appellant having a stammering voice was only mentioned by PW2 who claimed to have been told by PW1 which was not the case and that fact is not supported by the evidence on record.

Worse still, and according to the evidence on record, PW1 failed to immediately mention the appellant to the *'Sheha'* and his members whom she alleged to have first reported the incident. It is trite law that the ability of a witness to name a suspect at the earliest opportunity is an all-important assurance of his/her reliability, in the same way, unexplained delay or complete failure to do so, should put a prudent court to inquiry. See for instance the Court's decisions in the cases of **Marwa Wangiti Mwita & Another v. Republic** [2002] T.L.R. 39 and **Akwino Malata v. Republic**, Criminal Appeal No. 438 of 2019 [2021] TZCA 506 (21 September 2021: TANZLII).

In addition, although PW1 testified that she managed to identify the appellant with the aid of the light which was generated from the solar panel originated from the neighbouring house, she did not explain its intensity, the size of the area illuminated and the time spent under observation. It is our considered view that, since in this appeal, the incident happened at night under unfavorable circumstances including the

terrifying situation obtaining at the scene of crime, all conditions of visual identification stated in the case of **Waziri Amani** (supra) ought to have been met. It is therefore our settled view that, had the trial court and the first appellate court properly scrutinized the evidence of PW1 which was the only direct evidence relied upon to convict the appellant, they would have found that such evidence was not watertight. In the circumstances, we agree with the appellant that his conviction was based on insufficient evidence of his visual identification. As such, we also find merit in the first, second and fourth grounds of appeal.

It is also on record that although, PW2 testified that they recognized the appellant's t-shirt which he left at the scene, PW1 the only prosecution witness who was at the scene, did not testify on that aspect. Unfortunately, though, PW2 alleged that the said t-shirt was handed over to the police station after the arrest of the appellant, it was not tendered during the trial to prove that fact. Indeed, the evidence of PW3 added further doubt as to whether the said t-shirt belonged to the appellant because, during the trial, PW3 testified that, when the said t-shirt and the appellant were subjected to the DNA test, it did not produce positive

results. We thus agree that the appellant's defence raised doubts to the prosecution case. His guilty was not established to the required standard.

It is equally surprising that, although, the offence was alleged to have been committed on 9th October, 2020 around 21:30 hours and the appellant, according to the testimony of PW1 and PW2, was arrested and sent to the police on the same night, the record of appeal indicates that he was initially arraigned at the trial court to answer the charges on 2nd February, 2021 after the lapse of almost four months. One should wonder, if at all the appellant was arrested on the fateful date after being identified at the scene of crime, why then it took so long to investigate the case? According to the evidence of PW3, he was assigned the file of the case on 12th October, 2020 when the appellant was already in the custody.

The totality of the foregoing leads us to the conclusion that the prosecution case was tainted with doubts which in our criminal jurisprudence requires us to resolve in favour of the appellant. In our settled view, our findings on the above grounds suffice to dispose of this appeal and we thus find no useful purpose to consider the remaining grounds of appeal raised by the appellant.

Consequently, we allow the appeal, quash the convictions and set aside the sentences imposed on the appellant. We, accordingly, order that the appellant be released forthwith from the Offenders Education Centre unless he is held for some other lawful cause.

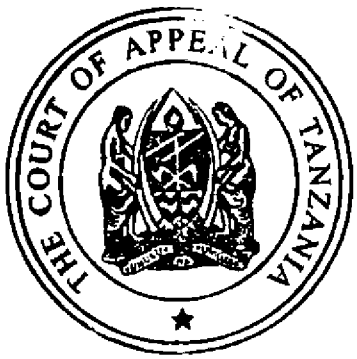
DATED at **ZANZIBAR** this 8th day of June, 2023.

F. L. K. WAMBALI
JUSTICE OF APPEAL

R. J. KEREFU
JUSTICE OF APPEAL

Z. N. GALEBA
JUSTICE OF APPEAL

Judgment delivered this 12th day of June, 2023 in the presence of Mr. Mohamed Saleh Iddi, Principal State Attorney and Mr. Zubeir Awamu Zuberi, State Attorney for the Respondent and the Appellant in person, is hereby certified as a true copy of the original.



F. A. MTARANIA
DEPUTY REGISTRAR
COURT OF APPEAL