

IN THE HIGH COURT OF TANZANIA
AT DAR ES SALAAM

CRIMINAL APPEAL NO. 71 OF 2001

(Original Criminal Case No. 98 of 2000 of Utete/Rufiji)

MOSHI ABDALLAH IPUMBU ::: APPELLANT
VERSUS
THE R E P U B L I C

J U D G M E N T

LUANDA, J:

In the District Court of Rufiji sitting at Utete one Moshi s/o Abdallah ~~Luanda~~ Mtemelwa (hereinafter referred to as ~~the~~ Appellant) was charged and convicted with assault causing bodily harm C/S 241 of the Penal Code. He was sentenced to pay a fine of T.shs. 40,000/= or 8 months jail in default. The appellant was unable to pay the fine. He went to prison.

One Abdulhaman Mtemelwa who is a relative of the "Appellant" who claimed to be a visiting justice of prison filed a memo of appeal. He said he is filing on behalf of his relative. The question is :- Is that proper? Ms Maganga Learned State Attorney said it is not proper and that the visiting justice of Prison has no locus standi. She cited S.363 of the CPA, 1985 which reads:

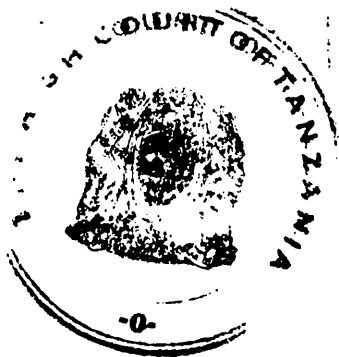
363. If the appellant is in prison he may present his petition of appeal and the copies accompanying the same to the officer in charge of the prison who shall there upon forward such petition and copies to the Registrar of the High Court.

I quite agree with Ms Maganga. Ms Maganga went on to say there is no notice of appeal. On persusing the record there is none. In the upshot the so called appeal is incompetent. The same is dismissed.


B.M. Luanda
JUDGE

11/10/2002

Judgment read over in the presence Mr. Kamenya State Attorney.



[Handwritten signature]
B.M. Luanda
JUDGE
11/10/2002

(JS:

