

IN THE HIGH COURT OF TANZANIA
AT TABORA
APPELLATE JURISDICTION
(Tabora Registry)
Misc. Criminal Appl. No. 103 of 2004
Original Criminal Case No. 21 of 2003
Of the District Court of Shinyanga District
AT SHINYANGA
MR. M. R. GWAE RESIDENT MAGISTRATE

LEONARD S/O JOHN APPELLANT
VERSUS
THE REPUBLIC RESPONDENT

R U L I N G

The applicant Leornard John was on 21.01.2004 convicted by Shinyanga District Court on a charge of Rape contrary to section 130 (2) (e) of the Penal Code as amended by section 5 of the sexual offences (Special Provisions) No. 4 of 1998 and Sentenced to 30 (thirty) years imprisonment.

The applicant has realized that he is time – barred to lodge an appeal, hence this application for extension of time within which to appeal.

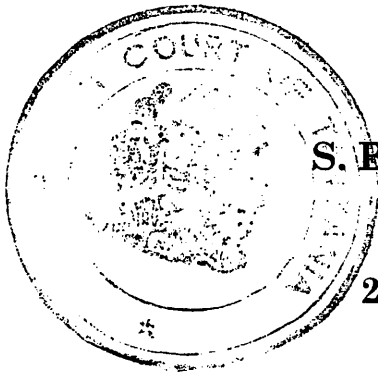
However this application, and the intended appeal cannot be heard due to lack of original record from Shinyanga District Court.

I have considered whether to order a retrial in the circumstances but I hold that it will not be in the best interest of justice, as the applicant has so far served nine years imprisonment.

I therefore invoke reversionary powers and quash the convictions and set aside the sentence imposed on the applicant.

It is ordered that the applicant be released forthwith from prison unless held therein on other lawful charges.

Order accordingly.




S. B. LUKELELWA,
JUDGE.

22nd May, 2013

Date: 22/05/2013

Coram: Hon. S. B. Lukelelwa, J.

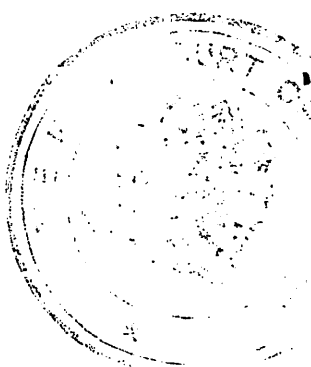
Applicant: Present


Respondent: Mr. Nestory Paschal State Attorney who is present

B/c: Mary Mpululu ,

Order: Ruling delivered in court this 22nd May, 2013.

Right of Appeal explained.




S. B. LUKELELWA,
JUDGE.
22nd May, 2013