

**IN THE HIGH COURT OF TANZANIA**

**AT MTWARA**

**CRIMINAL REVISION CASE NO. 3 OF 2015**

**ORIGINAL MTWARA CRIMINAL CASE NO. 93 OF 2014**

**BEFORE: HON. D. D. KOMBA ESQ – DRM I/C**

**THE REPUBLIC ----- APPELLANT**

**VERSUS**

**RASHIDI MUSSA @FUNDI NANGUMBI ----- RESPONDENT**

**ORDER IN REVISION**

**M. G. Mzuna, J.**

Rashidi Mussa @Fundi Nangumbi stood charged before Mtwara District Court for the offence of Assault causing Actual Bodily Harm c/s 241 of the Penal Code, Cap 16 R.E. 2002. He was alleged to have unlawfully assaulted Hamisi S/O Nurdini by hitting him with a piece of heavy stick on his head and his forehead and caused him to sustain serious bodily injuries. He denied the charge.

On 8/12/2014 the court (Muhoni, RM) dismissed the charge and proceeded to acquit the accused purportedly Under S. 225 (1) of the Criminal Procedure Act Cap. 20 R.E. 2002.

The matter was brought to my notice during the inspection of the case files.

The Magistrate acted in total violation of the law. Section 225 (5) of the CPA clearly states that after the expiry of 60 days (save for cases falling under fraud or forgery) where there is no certificate filed for further adjournment the court may proceed to dismiss the charge and discharge the accused (not acquit).


The order imposed by the trial Magistrate is illegal and can not be allowed to stand.

For the above reasons I set aside the order for acquittal. I order for the case to start afresh before another Magistrate. The accused be arrested and brought to court.

It is so ordered.

M. G. Mzuna,  
Judge  
4/6/2015

**Order:** Order delivered in the presence of Mr. Kimweri State Attorney and absence of the accused/respondent.

  
**M. G. Mzuna,**  
**Judge**  
**24/6/2015**