

**IN THE HIGH COURT OF TANZANIA  
(DAR ES SALAAM DISTRICT REGISTRY)**

**AT DAR ES SALAAM**

**CRIMINAL APPEAL NO 327 OF 2016**

**( Originating from the District Court of Ilala at Samora Avenue)**

**JOSEPH ANDREA MATONYA.....APPELLANT**

**VERSUS**

**THE REPUBLIC.....RESPONDENT**

**B.K. PHILLIP, J**

**R U L I N G**

In the District court if Ilala at Samora Avenue the appellatant was charged with the offence of rape contrary to Section 130 (1) (2) (e) and 131 (1) of the Penal Code (Cape 16, RE 2002). He was convicted and sentenced to thirty (30) years imprisonment with corporal punishment of twelve strokes and to pay compensation to a tune of Tshs 1000, 000/= to the victim. The appellatant has lodged his petition of appeal before this court and the same is pending for hearing.

When this appeal was called for hearing the learned State Attorney, Yasinta Peter, drew the attention of this court to the provisions of S. 362 (1) of the Criminal Procedures Act, Cap 20 2002. She submitted that, the above mentioned provisions of the law provides that every petition of appeal unless the High court otherwise directs, shall be accompanied by a copy of the proceedings, Judgment or order appealed against.

The learned State Attorney submitted further that, in the appeal at hand, the petition of appeal is not accompanied by the copy of proceedings as it is required by the law. She prayed this appeal to be strike out.

In reply to the learned State Attorney's submission, the respondent conceded that his petition of appeal is not accompanied by the copy of proceedings, however he informed this court that he has requested to be supplied with the copy of proceedings several times but he was not supplied with the same. He prayed for his appeal to be heard.

As correctly submitted by the learned State Attorney and admitted by the appellant, the appeal at hand is not accompanied by the copy of proceedings. This contravenes the provisions of S. 362 (1) of the Criminal Procedures Act. ( Cap 20, R.E 2002).

I have taken into consideration the appellant's response. The delay to obtain the copy of proceedings cannot be loophole to circumvent the clearly stipulated legal requirements in the provisions of S. 362 (1) of the Criminal Procedures Act Cap 20 RE 2002.

The appeal is strike out.



**B.K. PHILLIP**  
**JUDGE**  
**19/06/2018**