

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF ARUSHA

AT ARUSHA

CRIMINAL APPEAL NO. 119 OF 2017

(Originating from district court of Babati criminal case no. 79 of 2016)

MFAUME DAUDI MPOTO1ST APPELLANT

ANTHONY BANGA SAID.....2ND APPELLANT

GODFREY AUGUSTINO @ DIMIANO.....3RD APPELLANT

VERSUS

THE REPUBLIC RESPONDENT

RULING

DR. M. OPIYO, J

The Respondent raised objection that the appeal is incompetent for being initiated by a defective notice of appeal. The defect referred to is that the notice makes reference to intention to appeal against the Decision of Resident Magistrate Court of Manyara at Babati in Criminal Case No. 79/2016 which is in contrary to proceedings and judgment attached to the appeal which indicates trial court to be District Court of Babati at Babati.

Mr. Njau argued that, since notice of appeal is making reference to a different matter all together, it does not support the appeal at hand.

The appellants on their part pleaded for court's mercy as they are not the ones who prepared the notice in question, but the admission office at prison.

From the submission of both parties, it is indisputable that the notice refers to a different case before the RM'S court of Manyara at Babati, which in essence is different from the decision appealed against as indicated in the petition of appeal as Criminal case No. 79/2016 before District Court of Babati at Babati. In the circumstances no proper appeal supported by notice of appeal before me. I therefore proceed to strike out the appeal for lack of proper notice of appeal to initiate it.

Order accordingly.

(SGD)

DR. M. OPIYO,

JUDGE

4/5/2018.

I hereby certify this to be a true copy of the original.



A.K. RUMISHA,
DEPUTY REGISTRAR
ARUSHA