

**“ORIGINAL”**

**IN THE HIGH COURT OF TANZANIA  
DODOMA DISTRICT REGISTRY  
AT DODOMA  
CRIMINAL APPELLATE JURISDICTION**

**DC CRIMINAL APPEAL NO. 76 OF 2016**

*(Originating from the District Court of MANYONI*

*ECONOMIC Case No. 08 of 2016,*

*Hon. J.M MINDE, RM)*

**JONAS S/O NG'OLIDA.....APPELLANT**

**VERSUS**

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

**JUDGEMENT**

17<sup>th</sup> July 2017

**Mansoor, J:**

The Appellant was charged and convicted with the offence of unlawful possession of Government Trophies c/ss 86 (1) and (2) (c) (ii) and Section 113 (2) of the Wildlife Conservation Act No. 5 of 2009 read together with paragraph 14(d) of the First Schedule to, and section 60 of the Economic and Organized Control Act, Cap 200 R:E 2002;, and with the offence of unlawful dealing with Government Trophy c/ss 80 and 84 (1) and Section 113 (2) of the Wildlife Conservation Act no. 5 of 2009 read together with paragraph 14(d) of the First Schedule to, and



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section 60 of the Economic and Organized Control Act, Cap 200 R:E 2002;

The Appellant was convicted by the learned Magistrate for offences punishable under the above cited law, and sentenced him to pay fine of THz 600,000,000 or in default to serve 20 years in jail, for the first count, and for the 2<sup>nd</sup> count he was sentenced to serve fifteen years in jail, the sentences were to run concurrently. That conviction and sentence passed against the Appellants herein was challenged before this court, on appeal, raising five grounds of appeal.

The prosecution case is that on 12.02.2016, the Warden Officers, Paulo Mwizarubi, Athumani Bahati and others had arrested the Appellant and found him in possession of 2 elephant tusks weighing 9.8 kgs worth THz 60,000,000. He was taken to Manyoni Police Station and interrogated by Police Officer No. D 9181 DCPL Chiganga. The Accused person admitted to have been found with the government trophies. The Accused person, the Appellant herein was convicted on his own plea of guilty, and sentenced as above stated.

Ms Mgoma, the learned State Attorney supported the appeal on the grounds that there was no consent of the Director of Public Prosecution, “DPP” and the Certificate from the DPP to



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confer jurisdiction to the District Court to try the offence, thus it was not correct for the Appellant to enter a plea of guilty before a court which did not have jurisdiction. The Learned State Attorney prayed for an order of re-trial.

I went through the records and found the consent of the State Attorney in Charge of Singida Mr Zakaria Elisaria Ndaskoi dated 6<sup>th</sup> May 2016 issued under Section 26 (2) of the Economic and Organised Crimes Control Act, Cap 200 R: E 2002 and under the Economic Offences (Specification of Offences Exercising Consent) Government Notice No. 284 of 2014 for the prosecution of the Appellant with the offences charged. I have also seen a Certificate Conferring jurisdiction on a subordinate Court to try an economic crime case given by the said Zakaria Elisara Ndaskoi, the Principal State Attorney in Charge of Singida, having been duly authorised by the DPP to act on his behalf. The Certificate was issued under Section 12 (3) and (4) of the Economic and Organised Control Act, Cap 200 R: E 200. Thus, the State Attorney had misdirected herself on the issue of DPP's Consent and a certificate of jurisdiction, as these were all available on record.

Now, coming to the merits of appeal, it is clear from the proceedings that the appellant pleaded guilty to the charge. Thus, he only has a right to appeal against the sentence as



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stipulated under the provisions of section 360 (1) of the Criminal Procedure Act, Cap 20 R.E. 2002, and also as decided in the case of **John Samwel @ Kabaka and Another versus Republic, Criminal Appeal No. 58 of 2005**, Court of Appeal of Tanzania (unreported), in which the court considered an appeal on a plea of guilty and observed that —

***“The appellants' plea being unequivocal, they were correctly convicted on their own plea of guilty. It would follow that no appeal would lie on a plea of guilty.”***

In this case, the appellant having been convicted on his unequivocal plea of guilty cannot now be heard to complain about the conviction.

***360. (1) No appeal shall be allowed in the case of any accused person who has pleaded guilty and has been convicted on such plea by a subordinate court except as to the extent or legality of the sentence.***

I am satisfied that in this case, the appellant was rightly convicted on his own unequivocal plea of guilty in that he pleaded guilty to the charge and also accepted the prosecution facts in support of the charge.



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Consequently, this appeal lacks merit and is disallowed; the conviction and the sentence passed by the Trial District Court is confirmed.



  
**L. MANSOOR**

**JUDGE**

**17<sup>th</sup> JULY 2017**

Judgement delivered in Court today in the presence of the Appellant, Sarara State Attorney for the Respondent Republic and Mr C.A.Chali the Court Clerk.



  
**L. MANSOOR**

**JUDGE**

**17<sup>th</sup> JULY 2017**