

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(IN THE DISTRICT REGISTRY OF ARUSHA)**

AT ARUSHA

CRIMINAL REVISION NO. 9 OF 2018

*(Org. from PC. Criminal Case No. 201/2018 in the Primary Court of Babati
District at Babati)*

JUMA BAHATI APPLICANT

VERSUS

MARITINE MASUMBUKO RESPONDENT

RULING

S. M. MAGHIMBI, J:

On 07/06/2018 as I was visiting Babati Prison as part of the Supervision exercise, I came across one Juma Bahati, who was a young boy even from the onset of his looks. In fact he was a child. Upon probing him and the prison officers, it came to my knowledge that the boy was aged 16 years. He was convicted of the offence of Theft; c/s 265 of the Penal Code, Cap. 16 R.E. 2002 vide Criminal Case No. 201/2018 at Babati primary Court.

I then called the records of the Babati Primary Court Criminal Case No. 201/2018 to satisfy myself of the irregularity complained of. Upon perusal of the trial court I found that he was actually convicted and sentenced to serve a sentence of one month imprisonment contrary to the provisions of Section 119(1) of the Law of the Child Act, 2009 which prohibits custodial sentences of imprisonment on children worse so in the same prison that accommodates adult prisoners.

Having made that finding, I have further taken interest to peruse the records of the trial. Much as I am aware that this is a revision matter which is not an alternative to an appeal, however, before me is a helpless child and the purpose of my supervision is to ensure that justice is done to all. I have gone an extra mile as my attention was caught on the evidence adduced to have warranted the conviction of the applicant. The charge sheet shows that the alleged offence took place on the 29/04/2018, the complainant brought two witnesses, himself who said the incident took place on the 02/05/2018 and his SM2 who alleged that the incident took place on the 20/05/2018.

Therefore the evidence adduced at the trial was not even sufficient to have convicted the appellant, let alone sending him to serve a custodial sentence at an adult prison. For that reason, I hereby invoke my revisional powers, quash the conviction made by the primary court and set aside the sentence so passed. The applicant, Juma Bahati shall immediately be released from prison.

It is so ordered.

Dated at Babati this 07th day of June, 2018.

(SGD)
S.M. MAGHIMBI
JUDGE

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




DEPUTY REGISTRAR
ARUSHA

03/07/2018