

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(ARUSHA DISTRICT REGISTRY)

AT ARUSHA

MISC CRIMINAL APPLICATION NO. 61 OF 2018

ABDALLAH ATHUMAN LABIA @ BROTHER M

USTADHABDALLAH @ ABDALLAH MANG'OLA

@ ABUU ATHUMAN@ USTAADH MUNNA ...1st APPLICANT

HASSAN ZUBER SAID2ND APPLICANT

SHABAN ABDALLAH WAWA3RD APPLICANT

RAJAB PIRI HEMEDI..... 4TH APPLICANT

ALLY HAMIS JUMANNE 5TH APPLICANT

ALLY HAMIS KIDAANYA..... 6TH APPLICANT

YASINI HASHIMU SANGA 7TH APPLICANT

VERSUS

REPUBLIC RESPONDENT

MAIGE, J

RULING

In this matter, the applicants have, by a chamber summons supported by their joint affidavit initiated an application for extension of time to file a notice of appeal and to appeal against the decision of the Resident Magistrate Court of Arusha ("the trial court") in Preliminary Inquiry No. 43 of 2014 dated 30.01.2014. In the said decision, the applicants were convicted of an offence of contempt of court and sentenced six months imprisonment each. Aggrieved by the decision, the applicants timely instituted a criminal appeal number 35 of 2018 which was, on 8th June 2018, struck out for the reason of being preceded by a defective notice of appeal. Once again aggrieved, the applicants requested for copies of the judgment and proceedings and upon being availed to them they, on 16th August 2018, filed the instant application.

On the date of hearing, Miss. Grace, learned state attorney appeared for the Respondent whereas the applicants appeared in persons and were not represented. Miss. Grace, learned state advised the Court that the affidavit in support of the application demonstrate acceptable justification for the delay. With respect, I agree with them. In accordance with the irrefutable fact in the affidavit, the period between the pronouncement of the decision of the trial court and the striking of an appeal to this Court was justified on account that the applicants were in good faith, prosecuting the said prosecution. The period subsequent to the ruling of this Court and the filing of this application is justified on account that the applicants were waiting

for a copy of the ruling. I have also taken into account, in my decision, being incarcerated, the applicants could not be expected to be as much active in pursuing the necessary steps for the appeal as is a free person.

For those reasons therefore, the applicants are hereby allowed to file a notice of appeal and an appeal against the decision of the trial court above mentioned is hereby granted. The notice of intention to appeal should be filed within 14 days from today whereas the appeal within 30 days from today.

It is so ordered.

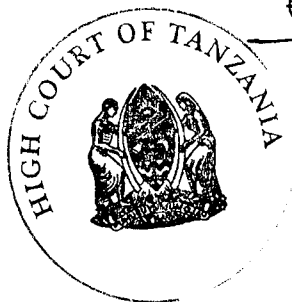


MAIGE.I

JUDGE

24.10.2018

Ruling delivered this 24th day of October 2018 in the presence of the applicants in persons and Miss Grace, learned state attorney.



MAIGE.I

JUDGE

24.10.2018