

**IN THE HIGH COURT OF TANZANIA  
AT DAR ES SALAAM**

**CRIMINAL APPEAL NO. 202 OF 2017**

(Originating from Bagamoyo District Court in  
Criminal Case No. 365 of 2015)

<b>PETER PETER JUNIOR</b>	.....	<b>1<sup>ST</sup> APPELLANT</b>
<b>HASSAN RAMADHANI</b>	.....	<b>2<sup>ND</sup> APPELLANT</b>
<b>NEEMA SYLIVESTER</b>	.....	<b>3<sup>RD</sup> APPELLANT</b>
	<b>VERSUS</b>	
<b>THE REPUBLIC</b>	.....	<b>RESPONDENT</b>

**RULING**

8/6/2018

G.J. Mdemu,J

**Peter Peter Junior, Hassan Ramadhani and Neema Sylivester** the 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> Appellants respectively were convicted of conspiracy for all Appellants, and forgery for 2<sup>nd</sup> Appellant and sentenced to two years imprisonment for the offence of forgery for all Appellants and two years and four years imprisonment respectively in respect of the 2<sup>nd</sup> Appellant for the two counts of forgery. Aggrieved by the decision of Bagamoyo District Court dated 11<sup>th</sup> day of January, 2017 against both conviction and sentence, the Appellants lodged a joint petition of appeal with 12 grounds of which 7 are for the first Appellant and 3 and 2 grounds for the 2<sup>nd</sup> and 3<sup>rd</sup> Appellants respectively.

At the hearing of appeal on 7/6/2018, Ms. D. Masinde, learned State Attorney appearing for the Respondent Republic made an objection to hearing of appeal on merits for being incompetent for having arisen from two notices of appeal. The first notice of

appeal was filed at Bagamoyo District Court on 20/1/2017 and the second one on 18/1/2017. She therefore submitted that the Appellants should verify which between the two notices is a genuine one. The 1<sup>st</sup> Appellant while conceding on filing the two notices of appeal, requested the Court to take cognizance of the notice filed on 23/1/2017 and proceed with hearing of the appeal on merits. The 2<sup>nd</sup> and 3<sup>rd</sup> Appellants in their reply to the State Attorney's submission opted to take the position of the 1<sup>st</sup> Appellant.

Scrutinizing the two notices of appeal, a great concern not real tied as to why the two notices at once but rather whether both or any of them was ever duly filed in the District Court of Bagamoyo. The notice dated 18<sup>th</sup> of January, 2017 was directed to the Registrar of the High Court of Tanzania and is not indicated if at all it was lodged at Bagamoyo District Court. It just contain signature of the Advocate while the place for signing the Court Clerk or Registry Officer is blank. It is therefore not known where the notice was filed as it is directed to the Registrar of the High Court while bearing the stamp of would be Bagamoyo District Court.


Much as is not clearly directed in section 359 and 361 of the CPA, Cap. 20 as to where notices of Appeal should be filed, the Court of Appeal in **Issa Juma Kinanda Vs. Republic, Criminal Appeal No. 275 of 2012 (unreported)** in its' judgment dated 2<sup>nd</sup> day of March, 2018 made it clear that notice of appeal be filed in subordinate Court (trial Court). The present Notice of Appeal not signed by any Court official directed to High Court but bearing the stamp of a District Court cannot be said to have been duly filed in

Bagamoyo District Court. There was therefore no notice of intention to appeal filed on 18/1/2017.

As to the notice purported to be lodged on 23/1/2017 the same is subject to proof as it is not dated. It simply contains a signature and stamp of the Court without appending therein respective dates. The appended date in the saving telegram addressed to the District Resident Magistrate Court signed by the Resident Magistrate on 23/1/2017 acknowledging receipt, is in respect of application for copies of proceedings and judgment for appeal purposes. This one is not, in legal terms, a notice of intention to appeal. I am therefore not prepared to accept the submission of the Appellants that their notice of intention to appeal was lodged on 23/1/2017 in absence of such a date appended to the notice itself. In conclusion therefore there was no notice lodged on that date as submitted by the Appellants and any other date as such date remain missing in the notice itself.

Having said so, the remedy available is to struck out this appeal instead of entertaining it with purported two defective notices which may make the Appellant's route to appeal a cumbersome one. It is further ordered that the Appellants' if so wishes should make application to this Court to have time extended for filing notice of appeal. It is ordered accordingly.

Dated at Dar es Salaam this 8<sup>th</sup> day of June, 2018.

  
**G.J. MDEMU**  
**JUDGE**  
**8/6/2018**

Date: 8/6/2018

For the 1<sup>st</sup> Appellant }  
2<sup>nd</sup> Appellant } All present  
3<sup>rd</sup> Appellant }

For the Respondent - Ms. D. Masinde, State Attorney

**Ms. D. Masinde, State Attorney:** The matter is for ruling. We are ready.

**1<sup>st</sup> Appellant:** I am ready.

**2<sup>nd</sup> Appellant:** I am ready.

**3<sup>rd</sup> Appellant:** I am ready.

**Order:** Ruling delivered.



**G.J. MDEMU**  
**JUDGE**  
**8/6/2018**