

IN THE HIGH COURT OF TANZANIA

AT DAR ES SALAAM

MISC. CRIMINAL APPL NO. 162 OF 2017

MICHAEL JOSEPH JOHNAPPELLANT

VERSUS

REPUBLICRESPONDENT

28/5/2018 & 19/6/2018

RULING

I.P.KITUSI,J.

The District Court of Temeke convicted Michael Joseph John and sentenced him to imprisonment for being in unlawful possession of firearms. He felt aggrieved and intended to appeal against the conviction and sentence but he was not given the requisite documents to enable him do so. He has therefore made an application for revision under sections 372 and 373 (1) (b) of the Criminal Procedure Act Cap 20, hereafter the CPA, inviting the court to quash the conviction and set aside the sentence.

Admitted by the applicant this procedure is strange but just an attempt by him to access the court, and Ms Ellen Masululi, learned State Attorney who appeared for the respondent republic was categorical that the applicant's remedy lies in section 359 of the CPA which provides for appeal.

I entirely agree with the learned State Attorney and would add that revision comes in only when a party has no right to appeal or that is barred by judicial process. Although the Court of Appeal was discussing the Court of Appeal Rules, 2009, its statement in the following case is valid to the present case; the case of **Spring Realtors Limited V. Msindika stores Limited & 9 others** Civil Application No. 129 of 2011 CAT at Dar es Salaam (unreported). Their Lordships cited the case of Transport Equipment Limited Vs **D.P. Valambhia** [1995] TLR 16, and; **Moses Mwakibele V. The Editor Uhuru and Two others** [1995] TLR 134 to the following effect;

" In our view, this court can be moved to use its revisional jurisdiction under S (3) only in cases where there is no right of appeal or where there is, it has been blocked by judicial process"

In this case the applicant has a right of appeal and the same has not been blocked by judicial process. The reason that hinders the applicant's enjoyment of that right is administrative. This application is therefore dismissed for being without merits.


I.P.KITUSI
JUDGE
19/6/2018