

IN THE HIGH COURT OF TANZANIA

IN THE DISTRICT REGISTRY

AT MWANZA

MISCELLANEOUS CRIMINAL APPLICATION NO. 22 OF 2020

(Arising from the High Court of Tanzania at Mwanza in Criminal Appeal No. 349 of 2018 before Hon. Mgeyekwa, J and Original Criminal Case No. 210 of 2018 of the District Court of Sengerema at Sengerema)

PETER MASINGIJAAPPLICANT

VERSUS

THE REPUBLICRESPONDENT

RULING

04 & 04/06/2020

RUMANYIKA, J.:

When the application for extension of time within which, with respect to judgment of this court (copy not appended) Peter Masingija (the applicant) to lodge a notice of appeal was called on today for hearing, following global outbreak of Corona virus pandemic and pursuant to my order of 7/5/2020 I heard them by way of Audio Teleconferencing (mobile number 0735 706 035 and 0767 262 492) respectively. Rightly so in my opinion Mr. Robert Kidando learned senior state attorney for the respondent Republic readily supported the application much as given contents of the applicant's supporting affidavit and in that regard a

supplementary affidavit of the incharge Butimba central prison for the reason of sickness the applicant having remained indisposed until he was late in the day ok that all the circumstances therefore constituted a sufficient ground for extension of time. The applicant for the obvious reasons he had no rejoinder.

With the above stated consensus of the parties this morning I granted the application and reserved reasons therefor. Here are the reasons;

The issue is no longer whether sickness of the applicant constituted good cause and sufficient ground for extension of time because the general principal has been that once it was sufficiently established and proved that the applicant should not have taken a necessary step late but due to the reason of sickness among other good cause alone that one was enough. Now that it was undeniable fact that upon being convicted for rape C/s 130 (1) (2) and 13 (2) of the Penal Code Cap 16 and he was sentenced to thirty (30) years on 6/4/2019 and that though orally hardly 3 days later on 9/4/2019 he expressed intention of appeal but shortly he suffered TB and for a couple of months he was admitted at Seko Toure hospital then he recovered but late in the day, for this reasons alone I granted the application. This are the reasons that I reserved this morning.




S. M. Rumanyika

JUDGE

04/06/2020