

**IN THE HIGH COURT OF TANZANIA**

**AT TABORA**

**APPELLATE JURISDICTION**

**(Tabora Registry)**

**MISC. CRIMINAL APPLICATION NO. 117 OF 2019**

(Original Criminal Case No. 87 of 2018 of the District Court  
of Urambo at Urambo)

BEFORE: HON. H.M. MOMBA, RM

**DAMAS S/O SILVANUS ..... APPLICANT**

**Versus**

**REPUBLIC ..... RESPONDENT**

**RULING**

30/03/2020 & 03/04/2020

**BONGOLE, J.**

**DAMAS S/O SILVANUS** herein referred to as “the applicant” has preferred this application under section 361 (2) of the Criminal Procedure Act Cap. 20 R.E. 2002.

The reliefs sought by the applicant are for orders that:-

1. For extension of time to file both the notice and petition of appeal out of time.
2. Any other relief this court may deem fit to grant.

The application is supported by the applicants’ affidavit.

The facts deposed by the applicant run thus:-

That he was arraigned before the District Court of Urambo for the offence of Rape contrary to section 131 (1) (2) (e) and 131 (1) of the Penal Code Cap. 16 R.E. 2002. That on he was convicted on the 1<sup>st</sup> August, 2019 and was sentenced to serve a custodial sentence of thirty (30) years vide Criminal Case No. 87 of 2018.

That he was aggrieved and gave a notice of appeal within time and applied for copies of judgement for the purposes of appeal. (He attached the said notice of appeal and marked it "A1").

That on the 27<sup>th</sup> September, 2019 he received the copy of Judgment well outside the time prescribed by the law within which he could have appealed, thus he had to appeal upon obtaining extension of time from the High Court hence this application.

That the delay in obtaining the copy of Judgement from the trial court caused this delay.

When this application was set for hearing, the applicant appeared in person and whereas Ms. Tumaini Pius learned State Attorney appeared for the Respondent (Republic).

Mr. Tumaini supported the application on account that the trial court was the cause of delay.

It is a salutary principle of law that for an application like the instant one, the applicant must adduce good and sufficient reasons for the delay and he must account for every day delayed.

From Annexure "A1" to the affidavit being a notice of appeal satisfies this court that the appellant was diligent. Further the applicant applied for requisite documents to enable him preferring his intended Appeal. It is apparent on record that the same were supplied to him out of the prescribed period of appeal as exhibited on the copy of Judgement attached to the affidavit.

In the upshot, I find this application meritorious for having met the required standard set.

This application is granted with consequential orders that the applicant should file a notice of appeal within 10 days and petition of appeal within 30 days from the date of this order.



**S.B. BONGOLE**

**JUDGE**

**03/04/2020**

Ruling delivered under my hand and seal of the Court in chambers this 3/04/2020 in the presence of the Applicant in person and Mr. John Mkonyi learned State Attorney for the Respondent.



**S.B. BONGOLE**

**JUDGE**

**03/04/2020**