

**IN THE HIGH COURT OF TANZANIA
(DAR ES SALAAM DISTRICT REGISTRY)**

AT DAR ES SALAAM

MISC. CRIMINAL APPLICATION NO. 106 OF 2020

*(Originating from Economic Crimes Case No. 27/2017, Dar
es Salaam Resident Magistrate's Court at Kisutu)*

JAMES BURCAHRD RUGEMALIRA.....APPLICANT

VERSUS

THE REPUBLIC.....RESPONDENT

RULING

The applicant filed an application under the enabling provision of section 44(1)(a) of the Magistrates' Act Cap 11 R.E. 2019 and section 372 of the Criminal Procedure Act Cap 20 R.E. 2019, inviting this court to call for and inspect the records in the proceedings before Hon. Shaida PRM on a ruling dated 7/5/2020 in rejecting his preliminary objection in Economic Crimes Case No. 27 of 2017.

When the respondent was served with the chamber summons above, raised preliminary objection grounded that: one, that the application is incompetent and misconceived for being grounded on an interlocutory decision; two, the

affidavit filed by the applicant is incurably defective for containing prayers, statements which are argumentative and extraneous matters.

The preliminary objections were argued by way of written submission.

In the impugned ruling, the subordinate court was invited by the accused (applicant herein) to dismiss or struck out all charges levelled against him in Economic Crimes Case No. 27/2017 pending for mention before the subordinate court. in the said ruling, the learned Principal Resident Magistrate held, I quote'

"...this court being a subordinate court to the High Court is not vested with powers to decide anything apart from mentioning it only"

This was just an interlocutory order or ruling, as did not terminate or dispose the proceedings. The law precludes any process by way of revision or appeal against an interlocutory order. A remedy sought by the applicant to call for and inspect the records of the trial court, by implication is inviting this court to exercise its powers of revision. Section 372(2) of

the Criminal Procedure Act, Cap 20 R.E. 2019, cited by the learned State Attorney, provides

"Notwithstanding the provision of subsection (1) no application for revision shall lie or be made in respect of any preliminary or interlocutory decision or order of a subordinate court unless such decision or order has the effect of finally determining the criminal charge"

I therefore agree with the argument of the learned State Attorney that the applicant application for revision before this Court is grounded against an interlocutory decision of the subordinate court which had no effect of finally determining the economic criminal charges instituted against the applicant. An argument by the applicant that the objection is invalid, is unfounded. The law is very clear that you cannot make an application for revision against an interlocutory decision.

As much the first objection suffices to terminate this application, I cannot venture to deliberate on the second objection.

The application is struck out for being invalid before this Court.



E.B. Luvanda
Judge
15.9.2020

A large, stylized handwritten signature in black ink, written over the judge's name and date.