

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF SHINYANGA

AT SHINYANGA

CRIMINAL REVISION NO. 2 OF 2018

*(Arising from Criminal Case No. 146 of 2017 of the District Court of
Meatu at Meatu).*

THE REPUBLIC.....APPLICANT

Versus

RAJABU RASHIDI.....RESPONDENT

Date of Last Order: 20/05/2020

Date of Ruling: 29/05/2020

RULING

C. P. MKEHA, J

These revisional proceedings were opened by the court suo motu in view of satisfying itself as to propriety or otherwise of the trial court's proceedings.

The record indicates that, initially, the accused pleaded not guilty to the offence of attempted suicide. The matter was then fixed for preliminary hearing date. On this latter date, the accused changed his plea to that of guilty.

However, apart from the trial magistrate recording at page 2 of the record that the accused had changed his plea from a plea of not guilty to that of guilty, the actual plea of the accused person is not reflected. That is not all. The facts of the case were not adduced to enable the Magistrate know whether, if at all the accused had changed his plea to that of guilty, he was indeed accepting to have committed the offence charged with all its ingredients. The said anomalies notwithstanding, the trial magistrate convicted the accused and proceeded to sentence him to be jailed for two years.

When Ms. Mbughuni learned Senior State Attorney was invited to comment on what transpired before the trial court, she was brief that, the proceedings were irregular for not containing the accused's plea which led to his conviction. She was hesitant to press for a retrial order because of the fact that the accused had already accomplished serving the illegal sentence.


The position of the law has always been that, in any case in which a conviction is likely to proceed on plea of guilty, it is most desirable not only that every constituent of the charge should be explained to the accused, but he should be required to admit or deny every constituent and that what he says should be recorded in a form which will satisfy an appellate court that

he fully understood the charge and pleaded guilty to every element of it unequivocally. **See: Republic Vs Yenesani Egalu and Others (1942) 9 EACA 65, Republic Vs M/SSP Construction (1981) TLR 6 and John Nuah Vs Republic (1978) LRT No.61.**


As indicated hereinabove, the accused's plea that led to his conviction is not reflected in the record. Neither are the facts of the case reflected. The conviction is pegged to nothing. The same can not be allowed to stand.

For the foregoing reasons the conviction and sentence entered are quashed. Since the accused has already served the said illegal sentence to its finality, I make no order as to his release as he is no doubt no longer in prison in respect of this case.

Dated at **SHINYANGA** this **29th day of May, 2020.**


C. P. MKEHA
JUDGE
29/05/2020

Court: Ruling is delivered in the presence of Ms. Mgughuni learned Senior State Attorney.



C. P. MKEHA
JUDGE
29/05/2020