

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF SHINYANGA

AT SHINYANGA

MISC. CRIMINAL APPLICATION NO. 13 OF 2019

*(Arising from PI Economic Case No. 5 of 2019 in the District Court of
Bariadi at Bariadi).*

PIUS MADUHU GITU.....1ST APPLICANT

SANAGU SAGUDA NYANZA.....2ND APPLICANT

Versus

THE REPUBLIC.....RESPONDENT

Date of Last Order: 18/05/2020

Date of Ruling: 22/05/2020

RULING

C. P. MKEHA, J

The applicants had moved this court to be pleased to release them on bail pending determination of their main case currently pending for investigation before the District Court of Bariadi. Before the said Committal Court, the applicants are being jointly charged with an offence of causing a pecuniary loss of TZS. 17, 127, 305/= to a specified authority contrary to section 284A(1)(2)(h) of the Penal Code read together with paragraph 38 of the 1st

Schedule to and sections 57(1) and 60(2) and (3) of the EOCCA as amended by sections 13 and 16 of the Written Law Miscellaneous Amendments Act, No.3 of 2016.


Through a letter dated 20/04/2020, the applicants wrote to his Worship the Deputy Registrar, that they would be pleased to see their application being heard and determined in their absence. Basing on the said letter, on 18/05/2020 the court heard the learned Senior State Attorney on a preliminary point of objection earlier raised. The preliminary point of objection is to the effect that, the application is incompetent for wrong and/or non citation of proper enabling provision of the law.

Submitting in support of the objection, Ms. Mbughuni learned Senior State Attorney submitted that the application cites improper enabling provision. As a matter of fact, the applicants cited sections 392A(2)(3)(a) and 148(1) of the Criminal Procedure Act as enabling provisions. According to the learned advocate, the applicants ought to have cited sections 29(4)(d) and 36(1) of the EOCCA.


The applicants are being detained in connection with economic offences. It is therefore correct that, it was improper to cite the provisions of the Criminal

Procedure Act as enabling provisions. Instead, the proper provisions ought to be sections 29(4)(d) and 361(1) of the EOCCA. The preliminary point of objection is held to be meritorious. The same is sustained. Application struck out for being incompetent.

Dated at **SHINYANGA** this **22nd day of May, 2020.**


C. P. MKEHA
JUDGE
22/05/2020

Court: Ruling is delivered in the presence of the applicants and Ms. Mbughuni learned Senior State Attorney.



C. P. MKEHA
JUDGE
22/05/2020