

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT REGISTRY OF ARUSHA
CRIMINAL APPLICATION NO. 68 OF 2020**

(Original, Economic Case No. 03 of 2018, in the Resident Magistrate Court of Manyara at Babati)

NASSORO BAKARI NASSORO.....1ST APPLICANT

ALLY ATHUMAN BUDO.....2ND APPLICANT

VERSUS

THE REPUBLIC.....RESPONDENT

RULING

17/02/2021 & 17/02/2021

GWAE, J

The applicants above have instituted this application under the provisions of section 361 (2) of the Criminal Procedure Act Cap 20 R.E 2002 seeking for an order of extension of time to file their appeal out of time. The application is supported by an affidavit deposed by Nassoro Bakari Nassoro the 1st applicant, whereas the respondent did not file his counter affidavit.

When the matter was called on for hearing before me, the 1st applicant appeared in person while the respondent was represented by **Mr. Hatibu** learned State Attorney who did not object the application.

Issues of extension of time has been dealt with in a number of cases and generally the position of this court has consistently been to the effect


that powers to grant such applications are entirely in the discretion of the court upon sufficient cause being established by the applicant.

I have considered the circumstances giving rise to this application which to my considered view were beyond the applicants' control taking into account that the applicants are in prison custody and they had left their case to be handled by their advocate to whom they trusted. It is a settled position of the law that a party cannot be punished for wrongful acts committed by his advocate see the case of **(Felix Tumbo Kisima vs. TTC Limited & another**, Civil Application No. 01 of 1997 (unreported). The same applies to the matter at hand, this court is of the view that failure of the applicants' advocate to file an appeal within the prescribed time and to abandon the applicants' case without notifying them on time should not be a punishment to the applicants.

In the event, this application is granted. The applicants are to file their appeal within thirty (30) days from the date of this ruling.

It is ordered.




M. R. GWAE
JUDGE
17/02/2021