

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
[ARUSHA DISTRICT REGISTRY]
AT ARUSHA

MISCELLANEOUS CRIMINAL APPEAL NO. 55 OF 2020

*(Appeal from the judgment of the District Court of Ngorongoro at Loliondo
(Hon. DS. Nyakunga – DRM) dated the 25th day of June, 2018 in Criminal
Case No. 33 of 2018)*

ZEFANIA BALTAZARIAPPELLANT

VERSUS

THE D.P.P.....RESPONDENT

JUDGMENT

19th November, 2020 & 04th February, 2021

Masara, J

The Appellant was charged and convicted of the offence of Attempted Rape c/s 132(1)(2)(a) of the Penal Code. He is recorded to have pleaded guilty to the offence and thus convicted of his own plea of guilty. Facts read over to him to prove the charge fall short of the evidence required to prove a charge of Attempted Rape. Furthermore, the Prosecution tendered an alleged Cautioned Statement which also does not corroborate the offence charged. There are strong suggestions that the Appellant was mentally unwell at the time of the alleged offence but also at the time he appeared before the trial court. As the alleged plea of guilty cannot be said to be unequivocal, this Court feels that he was wrongly convicted.

Consequently, this Appeal has merits. The Appellant was wrongly convicted and sentenced. The Appeal is hereby allowed. The conviction is quashed and the sentence of 10 years Imprisonment set aside. The Appellant should be released from prison forthwith unless otherwise lawfully held for another lawful cause.

Order accordingly.




Y. B. Masara

JUDGE

04/03/2021