

IN THE HIGH COURT OF TANZANIA

IN THE DISTRICT REGISTRY

AT MWANZA

MISC. CRIMINAL APPLICATION NO. 12 OF 2021

(In the matter of an Application for Extension of time to file a Notice of appeal and petition of appeal from the Judgment of the District court of Chato Hon. J. Kato, RM dated 01/02/2018 in Criminal Case No. 49 of 2018)

MUSSA S/O DAUDIAPPLICANT

VERSUS

THE REPUBLICRESPONDENT

RULING

30 & 30/04/2021

RUMANYIKA, J.:


When, with respect to conviction and custodial sentence of thirty (30) years dated 01/02/2018 of Chato district court the application for extension of time was through mobile numbers 0737877746 and 0717418929 respectively, by way of audio conferencing today the 30/4/2021 called on for hearing, Ms. L. Meli learned state attorney for respondent Republic readily supported it.

However, for ease of more clarity, Mussa Masoud's (the applicant's) supporting affidavit whose contents essentially he adopted, he submitted that having had, within time presented his notice of appeal to the respective prison officer, thereafter he was transferred to several prisons therefore he lost track. Only late in the day to be informed that his notice of appeal was nowhere to be seen much as the applicant's assertions were certified by the Prison Officer In charge as all being correct. However, for want of prosecution his 1st attempt in Miscellaneous Criminal Application No. 100 of 2019 was dismissed by Madeha, J on 4/3/2020 and, of course having had taken some necessary steps now he was back.

It is trite law that once a prisoner had presented a notice of appeal to prison officers for transmission, the latter cannot be blamed for any delays or in action caused by them. In fact from such date the notice, in this case now reported missing, it was deemed as having had been received by Deputy Registrar of this court.


It is for all these reasons I suppose that rightly so Ms. Lilian Meli learned state attorney readily supported the application.

The application is granted. The applicant may now wish to file a notice of appeal within ten (10) working days of this ruling and forty five (45) days later a memorandum of appeal.


S. M. RUMANYIKA
JUDGE
30/04/2021

Ruling delivered under my hand and seal of this court in chambers this 30/4/2021 in the absence of the parties.




S. M. RUMANYIKA
JUDGE
30/04/2021