

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**AT TABORA**

**MISC. CRIMINAL APPLICATION NO. 12 OF 2021**

*(Originating from Urambo District Court Criminal Case No. 118 of 2020)*

**RAJABU KASSIMU .....APPLICANT**

**VERSUS**

**THE REPUBLIC .....RESPONDENT**

**RULING**

*Date: 19/07/2021- 23/07/2021*

**BAHATI, J.:**

The applicant **Rajabu S/O Kassimu** herein lodged this application under the provisions of section 14 of the Law of Limitation Act, Cap. 89 [R.E 2019] and section 361 of the Criminal Procedure Act, Cap. 20 [R.E 2019]. It is supported by an affidavit sworn by the learned advocate Davis Muzahula who appeared via virtual conference for the applicant.

The applicant is praying for the following orders;

- a) That this honorable Court may be pleased to extend the time within which the applicant could file an appeal against the*

*decision of the District Court of Urambo in Criminal Case no. 118 of 2020.*

*b) That the honourable court be pleased to grant such other orders as it may deem fit and just to grant.*

The affidavit in support of the application reveals that; the applicant was the accused in Criminal Case No. 118 of 2020 in the District Court of Urambo at Urambo; the judgment in respect of the said case was delivered on 28<sup>th</sup> December 2020 by Hon. A. A. Mvula RM in which he was convicted and sentenced to 30 years imprisonment. A copy of the judgment is exhibited herein and marked exhibits RK/GLC/ "A"; on 5<sup>th</sup> January 2021 the applicant filed a notice of intention to appeal to the High Court of Tanzania at Tabora against the said judgment of the District Court of Urambo at Urambo. A copy of the notice of intention is exhibited herein and marked exhibit RK/GLC/ "B"; ever since, he has not filed a petition of appeal as he has no representation of a lawyer which is important for my case at this stage and that since he was sent to prison, he has never had any communication with his relatives hence could not get any important assistance.

That he eventually engaged Mr. Davis K. Muzahula Advocate of Galati Law Chambers, Advocates upon his visitation to prison on 30<sup>th</sup> April 2021. He told him that he was already out of time to file a petition

of appeal hence this application for an extension of time to file an appeal against the said judgment, conviction, and sentence. This application is very important as the judgment sought to be challenged is tainted with injustices, irregularities, and illegalities and therefore affects his rights and will defeat the interests of justice if left to stand.

When the matter was called for hearing, the applicant was represented by Mr. Davis Muzahula, learned counsel while Mr. Kajiru senior State Attorney for the Republic.

In his submission, he prayed to this court to adopt his affidavit and chamber summons to form part of the submission. Since the affidavit has revealed; he submitted that this application is brought under Limitation Act, Section 14, and also CPA Section 361(2). He submitted to this court that the right to appeal is provided for under the Constitution of the United Republic of Tanzania, Cap. 2, according to 13 (6) (a), the reason why he failed to file within 45 days as the law provides because he had no access to justice

He also contended that the decision of Urambo is tainted with irregularities, injustice, and illegalities which is a ground for extension of time. He prayed to this court for an extension of time.

Replying, the learned senior state Attorney supported the application. Since in the affidavit at para 4, 5 has been sufficiently explained.

There was no rejoinder. .

Having considered both the applicant's affidavit in paragraphs 4, 5 and 6 and the concession from the respondent, the court is suited for the reason to grant the application. I hereby grant an extension of time to lodge both the notice and petition of appeal within 14 days.

It is so ordered.



**A. A. BAHATI**

**JUDGE**

**23/7/2021**

Ruling delivered under my hand and seal of the court in the chamber, this 23<sup>rd</sup> day July, 2021 in the presence of both parties.



**A. A. BAHATI**

**JUDGE**

**23/07/2021**

The right of appeal is fully explained.



**A. A. BAHATI**

**JUDGE**

**23/07/2021**