

**IN THE HIGH COURT OF TANZANIA
(MTWARA DISTRICT REGISTRY)**

AT MTWARA

CRIMINAL APPEAL NO. 23 OF 2020

(Originating from the District Court of Masasi at Masasi in Criminal Case No.
6 of 2020)

LAURENCE ROBERT LIGUNDA.....APPELLANT

VERSUS

THE REPUBLIC.....RESPONDENT

RULING

11th October, 2021

DYANSOBERA, J.:

The appellant is, by way of a petition of appeal filed or rather dispatched to this court on 10.3. 2021, challenging the decision of the District Court delivered on 23.11.2020. When this appeal came for hearing, Mr. Wilbroad Ndunguru, learned Senior State Attorney informed the court that this appeal is incompetent as it was filed outside the prescribed period of forty five days from the date the copy of the judgment was certified. He prayed the appeal to be dismissed.

On his part, the appellant, admitting that his appeal has been filed out of the prescribed period of time, argues that he is not to blame as the lower court was late in dispatching a copy of judgment to the prison where he was incarcerated. He prays that since he is not to blame, his appeal should be heard.

I have considered the concern of the learned Senior State Attorney, I have also taken into account the explanation given by the appellant. The record of the District Court shows that the impugned judgment was delivered on 23.11.2020. The copy of the judgment was certified on 2.12.2020 hence ready for collection. However, it is not until on 10.3.2021 that the appellant dispatched this appeal to this court. Clearly, the appeal was filed beyond the prescribed period of limitation of 45 days.

This is in clear contravention of section 361 (1) (b) of the Criminal Procedure Act, [Cap. 20 R.E. 2019]. It is possible that the appellant's explanation for the delay might be plausible but the issue remains that the present appeal is barred by limitation.

As rightly pointed out by learned Senior State Attorney if anything, that ground can best be raised in an application for extension of time.

As the matters stand, this appeal is incompetent and the court is barred from entertaining it. The position of the law as supported by the case of **Saidi Shaibu Mwigambo v. R**, Criminal Appeal No. 42 of 2021 is that the appeal should be dismissed and I so order.




W. P. Dyansobera

Judge

11.10.2021