

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

**IN THE DISTRICT REGISTRY OF ARUSHA**

**AT ARUSHA**

**MISC. CRIMINAL APPLICATION NO. 81 OF 2021**

*(Originating from Arusha Resident Magistrate's court at Arusha in Economic Crimes  
Case No. 117 of 2019)*

**LOY LESILA @ MBAAPA.....APPLICANT**

**VERSUS**

**THE DIRECTOR OF PUBLIC PROSECUTION..... RESPONDENT**

**RULING**

10/11/2021 & 10/11/2021

**KAMUZORA, J:**

The applicant preferred this application for extension of time to file the notice of appeal out of time so that he could appeal out of time against the decision of the District Court of Longido in Criminal Case No. 117 of 2019. The application was brought by way of a chamber summons under section 361(2) of the Criminal Procedure Act (Cap 20 R. E 2002) and was supported by the affidavit deposed by the applicant himself.

The brief background of the matter is such that, the applicant was charged and convicted of the offence of rape under section 130(1)(2)(e)

and 131 (1) of the Penal code and after a full trial the court convicted and sentenced the applicant to serve 30 years imprisonment.

When the application was scheduled for mention, the applicant appeared in person with no any legal representation while Ms Lilian Mmasi, Senior State Attorney. Appeared for the respondent Republic.

Ms. Mmasi in the very early stage informed the court that, the republic has no any intention of filling a counter affidavit as they consent with the applicant's application for extension of time to appeal. She clearly stated that she was not contesting the application as the applicant was convicted of a grave offence attracting a grave sentence. She was of the view that it will be just if the appeal would be determined.

The applicant on the other side had no any useful submission to add to what was already submitted by the republic but prayed that the court grant the application.

Reading from the applicant's affidavit specifically under paragraph 2, 3,4 and 5 the applicant deponed that he was convicted on 30/09/2020 and the copies of proceedings and judgment was issued to him on 20/03/2021 and while on the process to lodge his appeal he

found himself time barred and that the delay was out of his ability thus for the interest of justice this application be granted.

I have considered the chamber application and the affidavit in support of the application and since the senior State Attorney acting for the interest of the republic did not contest the application, this court therefore do hereby grant extension of time for the applicant to appeal out of time. The applicant is granted leave to file the appeal to this court within thirty days (30) from today.

Application allowed.

**DATED** at **ARUSHA** this 10<sup>th</sup> Day of November 2021



  
D. C. KAMUZORA

JUDGE