# IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA MOSHI DISTRICT REGISTRY AT MOSHI

#### CRIMINAL APPEAL NO. 46 OF 2021

(Originating from Criminal Case No. 352 of the 2020 District Court of Moshi at Moshi)

ALLEN FRANK MAGUZO ------ APPLICANT

VERSUS

THE REPUBLIC ----- RESPONDENT

#### **JUDGMENT**

08/11/2021 & 10/12/2021

#### SIMFUKWE, J.

The appellant was charged before the District Court of Moshi with the offence of rape contrary to **Section 130(1)(2)(e) and 131(1)(3) of the Penal Code Cap 16 R. E 2002.** [R.E 2019]

It was alleged that Allen s/o Frank Maguzo on 6th day of August, 2020 at Majengo area within the District of Moshi in Kilimanjaro region, did have carnal knowledge of one S d/o N a child of 2 years and three months age.

Briefly, the facts of the case as captured from the records are set out as follows: - PW3 a girl of 2.3 years on the material date was playing outside with her fellow child, her mother (PW1) heard the victim asking her fellow

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to pick up the toy for her as her leg was paining. She asked her but she kept insisting that her leg was paining. PW1 decided to take her to Majengo Hospital and the doctor prescribed medicine for her. However, the child was alleged not to be normal. It was discovered that she was raped, she was taken to Upendo Hospital where after examination the doctor prescribed medicine and referred her to Mawenzi Hospital. They took the victim to central police gender desk then to Mawenzi hospital for further examination. The doctor's examination revealed that the victim was raped and she had no hymen. Then, the victim together with her mother went home and slept. When the victim woke up, she told her mother that "mama, baba Joyce kaniumiza hapa" pointing at her private parts. She insisted the same even after interrogation. The victim's story was reported to the police station and the appellant was arrested and charged as above.

The prosecution paraded a total of five witnesses and the defence side had only one witness. The district court of Moshi (trial court) was convinced by the prosecution narration where the appellant was convicted and sentenced to serve life imprisonment. The appellant being aggrieved with the whole decision and sentence, is challenging the same on the following grounds; -

- 1. THAT, the trial court erred both in law and fact to take in wholesale the general principle that proof of offence of rape comes from the victim herself and she disregarded the development of law made by the Court of Appeal of Tanzania at issue and erroneously convicted the appellant on an offence of rape. (sic)
- 2. THAT, the Honourable trial Magistrate erred both in law and fact

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- to convict the appellant basing on weak, fabricated, fragmented, inconsistent, incoherent, contradictory and/or hearsay evidence of the prosecution witnesses.
- 3. THAT, the trial Court Magistrate erred both in law and fact in convicting the appellant without proof of offence against him beyond all reasonable doubts as required by the law.
- 4. THAT, the prosecution failed to bring in Court material witnesses such as Joyce, an intern student from MAJENGO Hospital, the aunt, the DOCTOR from UPENDO DISPENSARY, the Gender desk Police Officer and/or co-tenant of PW1.
- 5. THAT, the decision of the trial Court was fraught with many irregularities, discrepancies and doubts.
- 6. THAT, the trial Court Magistrate erred both in law and fact to convict the appellant on an incredible evidence of prosecution witnesses.
- 7. THAT, the learned trial Court Magistrate erred both in law and in fact for failing to evaluate evidence which resulted into wrong decision.

The appellant prayed that the trial Court's conviction and sentence be set aside and the appellant be set at liberty.

During the hearing, the appellant was represented by Mr. Alfred Sindato, the learned Advocate while the respondent was represented by Ms. Lilian Kowero, the learned State Attorney. The matter proceeded orally.

The appellant's counsel raised two issues in connection with the grounds of appeal to wit; whether the prosecution proved the offence of rape beyond reasonable doubt and second; whether there are

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## procedural irregularities.

The learned counsel opted to argue the 1<sup>st</sup>, 2nd, and 3<sup>rd</sup> grounds of appeal jointly, 6<sup>th</sup> and 7<sup>th</sup> grounds of appeal jointly and 4<sup>th</sup> and 5<sup>th</sup> grounds of appeal were argued separately.

Mr. Sindato started to argue the issue of procedural irregularities where he noted about six irregularities.

The first noted irregularity is in respect of the 4th ground where he faulted the prosecution side for failure to call material witnesses who are Joyce the victim's playmate, an intern doctor from Majengo hospital, the doctor from Upendo Dispensary, the police officer from gender desk and any co tenant of PW1. He continued to argue that an intern doctor and the doctor from majengo Dispensary were the ones who initially prescribed the victim with cotrimazole vaginal cream and the pain killers before the victim was referred to Mawenzi Hospital. It was Mr. Sindato's views that the trial court committed a serious irregularity for failure to draw an adverse inference against prosecution evidence in advantage to the appellant. He made reference to the case of Aziz Abdallah vs R [1991] TLR 71; Pascal Sele vs R. Criminal Appeal No. 57 of 2017 (Unreported). He also cemented the issue of adverse inference by citing the case of Omari Hussein alias Ludanga and Another vs R, Criminal Appeal No. 547 of 2017 in which the Court of Appeal insisted the principles made in the case of Aziz Abdallah (supra); that:

"Failure to call such material witnesses who are within reach but are not called without sufficient reasons being shown by the prosecution is fatal."

He prayed the appeal to be allowed on such ground.

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The second noted irregularity is in respect of the 5<sup>th</sup> ground of appeal. Mr. Sindato faulted the trial court for conducting the preliminary hearing (PH) in contravention of section 192(1)(2) and (3) of Criminal Procedure Act, Cap 20 R.E 2019 and the principles made in the case of Ephraim Lutambi vs R [2000] TLR 265 in which it was held that; "Failure to conduct preliminary hearing to the dictates of the

"Failure to conduct preliminary hearing to the dictates of the law is fatal irregularity making the whole trial a nullity"

In respect of this irregularity, the learned advocate referred the Court at page 5 of the typed proceedings where the appellant was quoted to have said, "I dispute all the facts" and argued that the appellant disputed even his name and all allegations. Mr. Sindato was of the view that it is equally as the trial court proceeded with the trial without holding a Preliminary Hearing. Thus, the case was a nullity for failure to conduct Preliminary Hearing pursuant to the law.

Mr. Sindato noted the third irregularity in respect of the second issue where he faulted the trial Magistrate for remarking on the demeanour of PW3 (victim) while composing judgment as seen at page 7 of the trial court judgment while such demeanour is not reflected in the trial court proceedings. He thus argued that this contravenes **section 212 of CPA** and the principles of Court of Appeal made in the case of **Athuman Hassan vs Republic, Criminal Appeal No 392 of 2017** (unreported); in which it was held that;

"Recording the remarks of the demeanor of the victim without recording such remarks during recording of evidence in the proceedings was unfair trial and negation of constitutionally

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enshrined right of a fair trial."

Mr. Sindato quoted paragraph 1 at page 7 of the trial court judgment where it was stated that:

"This Court observed the demeanor of PW3 when testifying before the court and certified that she is telling truth because she was very calm and composed."

He commented that, the trial court was biased against the accused by adding such words regarding the demeanour of the witness contrary to the dictates of the law.

Under the 4<sup>th</sup> irregularity, Mr. Sindato condemned the trial court for contravening **section 210(1)(b)** of the CPA and the principle made by the Court of Appeal decision in the case of **Freddy Sichembe vs Republic, Criminal Appeal No. 148 of 2018** (unreported), by recording witnesses' evidence in a reported speech form instead of narrative form bestowed by the law. He cemented this point by referring the court to the evidence of PW1, PW2, PW3 and PW4 as seen at page 4-10 of the typed trial court proceedings.

Mr. Sindato noted the 5<sup>th</sup> irregularity by stating that the trial court unfairly disallowed the appellant defence of alibi and convicted him basing on the weakness of defence which is contrary to the principle made by the Court of Appeal in the case of **Christian Kale and Another vs Republic** [1992] TLR 303, in which it was held that:

"In criminal cases courts are barred from convicting on weaknesses of defence be it on alibi or otherwise."

He also cited the case of Athuman Hassan vs Republic, Criminal

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# Appeal No 292 of 2017 (Unreported), which held that:

"We wish to emphasize the time bound principle that the defence case however weak, trivial, foolish or irrelevant may seem has to be accorded the requisite consideration by the trial court, and if the trial court did not do so, then the first appellate court is duly bound to reconsider it."

The learned counsel called upon this court to reconsider the defence of alibi which was disregarded by the trial court.

The sixth irregularity as submitted by learned advocate is that the trial court contravened the principle made in the case of **Marwa Wangiti vs Republic [2000] TLR 39** by unprocedurally accepting prosecution evidence without making an inquiry to know why the accused was belatedly arrested on 7/8/2020 after an elapse of 24 hours taking into consideration that the appellant did not flee to defeat the efforts of his arrest despite of the delayed arrest.

Another irregularity is that the victim belatedly mentioned the suspect (accused) contrary to the principle which was made in the case of **Marwa Wangiti (supra)** that;

"It is the victim's duty to name the suspect early as possible."

In respect of this argument, the learned advocate argued that in the present case the victim mentioned the appellant at the last minute after elapse of a day which imply that the victim was couched. He made reference to the case of Joel Jones Mrutu vs Republic Criminal Appeal No 25 of 2019 at page 7, HC at Moshi in which Hon. Mwenempazi J when facing similar situation held that:

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"And unexplained delay and complete failure to do so should put a prudent court to inquiry."

The learned advocate also argued that this principle was insisted in the case of **Mohamed Said vs R, Criminal Appeal No. 145 of 2017** (unreported) **Athuman Hassan (supra)** where the Court emphasized the need to subject the evidence of the victim to sucritiny in order to satisfy itself on its truthfulness.

The last irregularity is in respect of 7<sup>th</sup> ground of appeal, where the learned advocate condemned the trial magistrate for adding her own words or speculations during evaluation of evidence. Reference was made to page 2, 10<sup>th</sup> sentence; 1<sup>st</sup> paragraph of the typed judgment where the magistrate was quoted to have said;

"It appears that she did not pay attention to the children".

The learned advocate was of the view that these added words were not part and parcel of the proceedings and these words were in favour of prosecution evidence which prejudiced the accused. This is contrary to the principles made in the case of **Janta Joseph and Others vs Republic, Criminal Appeal No 95 of 2006** which prohibited conviction basing on speculations.

Basing on these pointed out irregularities, Mr. Sindato was of the view that the decision of the trial court is a nullity and it is not a fit case to warrant retrial in terms of the case of **Fatehal vs Republic**, [1966] **EACA 343**. The learned advocate gave reason for not supporting retrial that there are so many irregularities in the trial court proceedings. He thus prayed for the trial court decision to be set aside and the appellant be released.

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Concerning the second issue on whether the prosecution proved the offence of rape against the appellant; Mr. Sindato was guided by the canon principle in the cases of Said Hemed vs Republic [1987] TLR 117 and Jonas Nkize vs Republic [1992] TLR 213, that the burden of proof is on prosecution side. In support of the 1st, 2nd, and 3rd grounds of appeal, the learned counsel averred that the prosecution failed to prove their case beyond reasonable doubts because the trial magistrate erroneously inclined generally or in wholesale on the principle previously applied in the case of Seleman Mkumba (supra) and disregarded the most development of law made in the case of **Pascal** Sele (supra) and the case of Butongwa John vs Republic, Criminal Appeal No 450 of 2017, Majaliwa Ihemo vs Republic, Criminal Appeal No.197 of 2020 (unreported) in which it was insisted that the previous position of the law in Seleman Mkumba (supra) is just general and should not be taken in wholesale without proof of important points like credibility of prosecution witnesses, reliability of their evidence and circumstances relevant to the case.

Mr. Sindato contended further that, the previous position under **section 127(6) of Tanzania Evidence Act, Cap 6** R E **2019** was that a conviction on sexual offence may be based on uncorroborated evidence of the victim but recently the Court of Appeal of Tanzania enunciated a new position in the case of **Mohamed Said (supra) at page 15** where it was held that:

"It was never intended that the word of the victim of sexual offence should be taken as a gospel truth but that her/his evidence should pass the test of truthfulness."

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Mr. Sindato also made reference to most recent decision of the case of **Athuman Hassan(supra)** in which another development of the law on the issue of scrutinizing evidence of the victim was made. He argued that the principle in the case of **Seleman Mkumba** is no longer applicable. Mr. Sindato went on to argue that the issue is, did PW3 give a credible and reliable evidence to prove that the appellant committed the alleged offence of rape to worth safely be taken wholesome or in general? And whether the prosecution case was proved beyond reasonable doubts to an extent of proving that the appellant raped the victim. In line of these questions, the learned advocate was of the view that the victim's quality of evidence was not worth to be safely taken in wholesome as shown on page 15-16 of the trial court proceedings that the same was incredible, contradictory, untrustworthy and fabricated. The noted contradiction is at page 15 of proceedings reads as follows:

"Inside the room we were me and Joyce"

While being cross examined she stated that:

"On that day, I was playing with Joyce outside when my mother found me praying with Joyce, I was crying."

At page 16 of the proceedings while the victim was being re-examined by the State Attorney, she stated that:

"When my mother found me outside, I was crying."

Basing on the above quotations, it was submitted that the victim's evidence was shaken during cross examination.

The second observation was to the effect that the victim's evidence is one against one, Mr. Sindato was of the view that this kind of contradictory evidence of prosecution witnesses especially PW3, affected the credibility of victim's evidence and that it should not be taken as

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wholesale as it goes to the root of the case. He called upon this court to invoke the principle made in the recent case of the Court of Appeal and quash the conviction and sentence and set the appellant at liberty.

The learned advocate also challenged the evidence of other prosecution witnesses particularly PW4, PW1 and PW2 to the effect that their evidence was also incredible, weak hearsay and contradictory and did not prove who raped the victim at all. He made reference to page 10,2<sup>nd</sup> paragraph,17 and 20, 2<sup>nd</sup> sentence of the typed proceedings.

Mr. Sindato further challenged exhibit P1(PF3) on the ground that the same does not accord conviction because; first, it is not specific as it shows that the victim was referred to Mawenzi Referral Hospital after having taken medication and shower. PW4's evidence does not tell if the victim was checked after taking shower or not; second, PW4 (doctor) had no locus to tender it since the same was supposed to be tendered by an intern doctor from Majengo Health Centre and a doctor from Upendo Dispensary who initially examined the victim before she was referred to Mawenzi Hospital; third, the PF3 is doubtful as it doesn't state whether the victim was raped or not. Instead, it shows that the victim was found with whitish discharge due to an application of cotrimazole vaginal cream on her genitals.

Mr. Sindato went on to state that further findings show that the quality of evidence of PW4 was poor or weak as the same exhibit P1 contradictorily stated at part 2 roman (iv) that:

"no any use of medication made"

While at part 4 (b) (i) states as follows:

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"No mild bruise per internal vaginal, has no pv bleeding, clothes not stained with blood"

The above statement implies that PW4's statement in exhibit P1 such white discharge from the victim's private part is not human sperms meaning that there was no rape committed at all. No traces of spermatozoa were seen.

Also, PW4 orally contradicted exhibit P1 by saying that:

# "My observation as a doctor found that she was penetrated with a blunt object in her vagina."

The statement which was not indicated in exhibit P1.

Mr. Sindato also noted another contradiction in exhibit P1 at part 4(b)(ii) which states; "whitish discharge due to application of cotrimazole vaginal cream" where Mr. Sindato stated that google search uncovered that cotrimazole vaginal cream is a treatment of vaginal yeast infection in adults and children of tender age. It reduces vaginal burning, itching and discharge which may occur due to that condition. It is in a class of antifungal medication called imidazole. It works by stopping the growth of fungi...."

Basing on google findings, the learned advocate was of the view that no medication applied and the previous doctor who attended the victim could have cleared this doubt whether the victim was raped or was suffering of fungus.

Moreover, Mr. Sindato stated that Exhibit P1 contains hearsay since the doctor (PW4) did not interrogate the victim instead the interrogation was done by her mother who pre emptied the doctor by saying that PW3 (victim) was raped as if she knew the rapist in advance. He referred the

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court at page 17 of the typed proceedings and argued that the information is from victim's mother and not the victim herself. He called upon this court to expunge it from the record. He argued further that even if the same is expunged still the remaining evidence cannot be saved by oral evidence of other prosecution witnesses, particularly oral evidence of PW3 (victim) since the same was contradictory and overtaken by development of law. Likewise, the evidence of the rest of prosecution witnesses are contradictory hearsay and not enough to establish the appellant's guilt.

It was further contended that the issue of recognition of the offender was taken in a light way during evaluation of evidence in proving the second issue raised by the trial court as the same did not require victim's evidence as per the principle made in the case of **Shamir vs Republic**, **Criminal Appeal No 166 of 2004** in which it was held that:

"But even when the witness is purporting to recognise someone he knows, the court should always be aware that mistakes in recognition of close relatives and friends are sometimes made."

He thus argued that the victim was obliged to recognise the accused whom she knew as close neighbour of a close door and father of Joyce the victim's friend.

Submitting on the 7<sup>th</sup> ground of appeal, the learned advocate noted 3 errors alleged to have been made by the trial Magistrate during evaluation of evidence. The first error was that, PW2'S testimony on whether the victim was raped or not was suspicious. The second error was that the trial Magistrate was suspicious on whether there was rape

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or not as seen at page 2 paragraph 2 of typed judgment where it was stated that:

"In my view, by considering the age of the victim, if there was a complete penetration, it leaves severe impact to the victim."

In line to that. Mr. Sindato argued that considering the age of the victim who was 2 and a half years, the impact would have been severe. It leaves doubts that possibly the bruises were caused by fungus or PW2's fingers used unprofessionally while checking the victim's private parts.

In conclusion, the learned advocate stated that the prosecution failed to prove the case beyond reasonable doubts. He thus prayed that trial court's judgment be set aside and appellant be set at liberty.

In reply, the learned State Attorney supported conviction and sentence against the appellant. She opted to submit on 1st, 2nd,3rd,4th and 6th grounds of appeal jointly. She admitted the principle that the best evidence comes from the victim as it was held in the case of **Selemani** Makumba (supra). Ms. Kowero conceded that there is further development made by the Court of Appeal that the court should also consider the reliability of the witness. In that respect, Ms. Kowero was of the view that PW3 (victim) was reliable and credible witness. She referred page 15 of the typed proceedings of the trial court and argued that the victim explained well though she was a young child of two years how the appellant hurted her by showing on her private parts. She even mentioned the appellant as baba Joyce who was identified in the dock. Her evidence was corroborated by other prosecution witnesses. PW1 the mother of PW3, also testified to the effect that it was "Baba Joyce" who had injured the victim on her private parts. Also, evidence of PW2 the

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grandmother who examined the private parts and found that it was reddish like there was blood. PW3 when asked by PW2 as to who had hurt her, she mentioned *baba Joyce*. PW4 the doctor who attended the victim testified that the victim's vagina had bruises and had no hymen. That, the same was to the effect that it was penetrated by a blunt object where he tendered Exhibit P1, a PF3 which was disputed by the learned counsel of the appellant that it did not show that the victim was raped. Ms. Kowero argued further that a PF3 is not proof of rape. She said PW4 explained well that the girl was penetrated.

The learned State Attorney was of the view that, by looking at the evidence of PW3 which was corroborated by other prosecution witnesses, it is obvious that the victim's evidence was reliable and consistent despite her age. The same was opined by the trial magistrate at page 7 first paragraph of the judgment where she stated that at her age she could not be couched to that extent. Also, the trial magistrate considered the demeanour of PW3 that she was calm and composed despite her age.

Ms. Kowero therefore insisted that PW3 was credible witness and there was no contradiction or discrepancy which extended to the root of prosecution case. She added that the prosecution called five witnesses who sufficed to prove the offence charged beyond reasonable doubts. Thus, the two main ingredients of sexual offences, thus, perpetrator and penetration were proved. Even the evidence of PW4 the doctor and exhibit P1 also proved the offence charged beyond reasonable doubts. Regarding the 5<sup>th</sup> and 7<sup>th</sup> grounds of appeal which concern failure of the trial court to evaluate evidence, the learned State Attorney submitted that the trial Magistrate in her decision raised 3 issues which were

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answered in affirmative and the decision was reached after reasoning the entire prosecution evidence. Also, the defence of the appellant was considered since he raised the defence of alibi contrary to **section 194 of CPA**. Further to that, the appellant did not call any witness to prove the said alibi considering the seriousness of the offence of which he was charged. He also failed to prove the theme of his case and never cross examined on the same. The learned State Attorney opined that the defence of alibi of the appellant was an afterthought that's why the trial court did not give it weight.

In conclusion, Ms. Kowero submitted that the prosecution proved its case beyond reasonable doubts. She thus prayed this appeal to be dismissed and the trial court conviction and sentence be upheld.

In rejoinder, the learned advocate for the appellant reiterated what he submitted in chief. He added that prosecution evidence was shaked during cross examination and did not suffice to ground conviction. Concerning evidence of PW1 the mother of the victim, it was submitted that no neighbour was involved in the incidence. That, PW1 had love affairs with the appellant as stated by the appellant in his defence which was not disputed. He referred to the case of **Kwiga Masa vs Samwel Ntubatwa [1989] TLR 103,** in which it was held that:

"Failure to cross examine on important matter ordinarily implies the acceptance of the truth of witness's testimony."

On the issue of irregularities, Mr. Sindato argued that they raised many irregularities but the State Attorney submitted in respect of alibi only. He added that section 194 of CPA pursuant to the case of Maganga Gudagali vs Republic, Criminal Appeal No.144 of 2017 it was

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#### insisted that:

"Still on the defence of alibi, section 194(6) of the CPA requires the court to consider the defence of alibi where it is not properly raised."

The learned advocate concluded by reiterating that the prosecution failed to prove its case beyond reasonable doubts and prayed his earlier prayers that conviction and sentence against the appellant be quashed and set him at liberty.

I have critically studied the memorandum of appeal, submissions of both parties as well as the trial court's records. In scrutinizing this appeal, I will deal with the following two issues;

- i. Whether there are procedural irregularities
- ii. Whether the prosecution proved the offence of rape beyond reasonable doubts.

Starting with the issue of procedural irregularities, Mr. Sindato for the appellant has raised almost six irregularities which the learned State Attorney replied only one irregularity of the defence of alibi.

Starting with the first irregularity that there was failure to call material witnesses; as rightly submitted by the learned advocate for the appellant, it is true that failure to call material witness draw adverse inference in prosecution side. In the case of **Allan Duller vs Republic, Criminal Appeal No.367 of 2019** the decision which was delivered recently by the CAT at page 34 it was stated that:

"The principle of adverse inference finds its basis on an assumption that the evidence which could be, and is not, produced would, if produced be unfavourable to the person

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#### who withholds it."

It is on evidence that when the incidence occurred, the victim was playing with one Joyce who was not called by the prosecution side. The sub issue is; is this witness material? The answer is definitely 'Yes'. She is the eye witness who could add value as to what transpired on that material date. The prosecution did not call her. Failure to call her draw an adverse inference against the prosecution case.

The same applies to two first doctors who attended the victim. It is on record that, the victim was taken to two doctors prior to PW4. We are not told what transpired when the victim was taken to the first doctor who prescribed medicine to the victim, even the second doctor. The story which we have is from the third doctor (PW4).

As rightly submitted by the appellant's advocate, the victim being an infant, impact of the alleged rape could have been severe; I am of considered view that, if at all there was even slight penetration the impact could have been seen. Even the first doctor could have discovered something or it could leave some impact to the victim as stated by the trial magistrate at page 5 of the judgment. Unfortunately, the prosecution did not call those doctors.

Coming to the next irregularity, Mr. Sindato faulted the trial magistrate for relying on the demeanour of the victim; the demeanour which was not recorded/found in proceedings. I have gone through the trial court judgment especially at page 7. It is true that the magistrate also relied on demeanour of the victim in convicting the appellant. The law as well as Court of Appeal decision is very clear on the issue of demeanour especially when the trial court referred on it in convicting the accused.

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## **Section 212 of CPA** provides that:

"When a magistrate has recorded the evidence of a witness, he shall also record such remarks, if any, as he thinks material respecting the demeanour of the witness whilst under examination."

In the entire proceedings, the trial magistrate did not record the demeanour of the victim as required by the above provision of the law. However, she relied on the same in evaluation of evidence. This is fatal as rightly submitted by Mr. Sindato who made reference to the case of **Athuman Hassan** (supra).

I am of considered view that, the above noted irregularities raises reasonable doubts on the prosecution case. The same suffices to dispose of the appeal. Hence, conviction and sentence against the appellant cannot be sustained.

In the upshot, I find no need of discussing the rest of the grounds of appeal. Consequently, I allow the appeal, quash the conviction and set aside the sentence imposed on the appellant. I hereby order that the appellant be released immediately, unless he is otherwise lawfully held. It is so ordered.

Dated and delivered at Moshi this 10<sup>th</sup> day of December, 2021.

S. H. SIMFUKWE

JUDGE

10/12/2021