

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(DODOMA DISTRICT REGISTRY)
AT DODOMA

(DC) CRIMINAL APPEAL NO. 191 OF 2020

(Originating from the District Court Iramba at Kiomboi Criminal Case No. 55 of 2020)

DANIEL YUNUS@MSENGA APPELLANT

VERSUS

THE REPUBLIC.....RESPONDENT

16/12/2021 & 17/12/2021

JUDGMENT

MASAJU, J

The Appellant, Daniel Yunus@Msengi, was charged with and convicted of UNLAWFUL CULTIVATION OF PROHIBITED PLANTS contrary to section 11(1) (a) of the Drug Control and Enforcement Act, 2015 in the District Court of Iramba. He was sentenced to serve thirty (30) years in prison. Hence this Appeal to the Court.

The Appellant's Petition of Appeal is made up of four (4) grounds of appeal essentially stating that the prosecution case against him in the trial court was not proved beyond reasonable doubt.

When the appeal was heard in the court on the 16th day of December, 2021, the layman Appellant appeared in person. He adopted his grounds of appeal to form submissions in support of the appeal in the Court. He stated that that he did not commit the crime and prayed the Court to free him.

The Respondent Republic in the service of the learned Senior State Attorney, Mr. Harry Mbogoro, did not contest the appeal due to serious procedural irregularity of not reading over to the trial court the prosecutions documentary exhibits that were admitted in evidence. The said documentary evidence were the Governments Chief Chemist Report (Exh.P1), Search Warrant and Certificate of Seizure (collectively Exh. P2) and the Inventory Form (Exh. P3). That, the said evidence has got to be expunged from the record accordingly. That once that is done, the remaining prosecution case becomes weak to prove that the impugned prohibited plant, were actually bhang. The Republic prayed the Court to allow the appeal, quash conviction and set aside the sentence against the Appellant.

The Court appreciates the submissions by the parties on this appeal as it agrees with them accordingly that the prosecution case was not proved beyond reasonable doubt against the Appellant given the procedural irregularity highlighted by the parties to the appeal. The said impugned prosecution exhibits are hereby severally and together expunged from the record of trial court.

That said, the meritorious appeal is hereby allowed. The conviction and sentence against the Appellants are hereby severally and respectively quashed and set aside accordingly. The Appellant shall be released forthwith from prison except if there was a lawful cause.



GEORGE M. MASAJU

JUDGE

17/12/2021