

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(SUMBAWANGA DISTRICT REGISTRY)

AT SUMBAWANGA

DC. CRIMINAL APPEAL NO. 39 OF 2021

SALI S/O JACKSON APPELLANT

VERSUS

THE REPUBLIC RESPONDENT

(Appeal from the decision of the District Court of Nkasi at Namanyere)

(B. B. Nkomola, RM)

Dated 30th day of March 2021

In

Economic Crimes case No. 4 of 2020

JUDGMENT

17/05 & 11/07/2022

NKWABI, J.:

The appeal is conceded by the Respondent (the Republic) but only to the extent that Economic Crimes case No. 4 of 2020 in the District Court of Nkasi at Namanyere is ordered be tried de novo. The basis of that stance, contended Ms. Maguta, learned State Attorney that they have sufficient evidence on the record, to that end if the case is retried, they will secure a conviction against the appellant. Ms. Maguta pointed out the cause for such approach is that the consent and certificate for Trial were not endorsed by the trial court and the court proceedings do not reflect when they landed in court file.

The appellant is urging this court that the conviction and sentenced against him for the offence of unlawful possession of government trophies contrary to section 86(1) and (2) (c) (ii) of the Wildlife Conservation Act No. 5 of 2009 read together with paragraph 14 of the First Schedule to and sections 57(1) and 60(2) of the Economic and Organized Crimes Control Act, [Cap. 200 R.E. 2019] was not based on the respondent's case being proved beyond reasonable doubt. The government trophies that were seized by the Game Wardens, are two Elephant tusks valued at USD 15,000 equivalent to T.shs. 69,402,000/=.

Having being affronted with the conviction and sentence of the trial court, the appellant paraded four grounds of appeal in this court as they appear in the petition of appeal. The basic complaints in their appeal are that the charge was not proved beyond reasonable doubt. There was no expert evidence among other complaints of appeal.

Without going into details of the merits or otherwise of the case, the outlined anomaly that the certificate conferring jurisdiction to a subordinate court to try an economic crimes case and the consent of the Prosecuting Attorney in-charge were neither endorsed by the trial court, nor are they reflected in the


proceedings of the trial court which anomaly justifies this court to quash the proceedings and judgment of the trial court. Having the considered the evidence in record, I buy Ms. Maguta's contention that this case is fit for an order of trial de novo. This is because, on the face of the record, there is a prima facie case against the appellant. That means that the evidence on the prosecution side is strong and may support conviction. See **Adam Seleman Njalamoto v. Republic**, Criminal Appeal No. 196 of 2016 (CAT) (unreported) cited to me by Ms. Maguta.

I am of the view that in the circumstance of this case, conviction has to be quashed and sentence set aside. I proceed to do so. The matter has to be tried de novo before another magistrate of competent jurisdiction.

It is so ordered.

DATED at **SUMBAWANGA** this 11th day of July 2022.




J. F. NKWABI
JUDGE