

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

**DC CRIMINAL APPEAL NO. 45 OF 2022**

(Originating from Criminal Case No. 22 of 2021 of Resident Magistrate Court of Dodoma  
at Dodoma)

**PASAKA TASA KALAMBA .....APPELLANT**

**VERSUS**

**THE REPUBLIC..... RESPONDENT**

*18/8/2022 & 31/8/2022*

**JUDGMENT**

**MASAJU, J**

The Appellant, Pasaka Tasa Kalamba, was tried and convicted of three counts, **Personating Public Officer** contrary to section 100(b) of the Penal Code [Cap 16 RE 2019], **Obtaining Money by False Pretence** contrary to sections 301 and 302 of the Penal Code [Cap 16 RE 2019] and **Obtaining Money by False Pretence** contrary to sections 301 and 302 of the Penal Code [Cap 16 RE 2019 in the Resident Magistrates Court of Dodoma at Dodoma. He was sentenced to serve six (6) months imprisonment for the first count, for the second count he was sentenced to serve twelve (12) months imprisonment and for the 3<sup>rd</sup> count he was sentenced to serve twelve months (12) imprisonment. The sentences to run concurrently.

Aggrieved by the decision, the Appellant has come to the Court by way of an appeal. The Appellant's Petition of Appeal is made up of eight (8) grounds of appeal in which he essentially argues that the prosecution's case against him in the trial court was not proved beyond all reasonable doubt.

The appeal was heard in the Court on the 18<sup>th</sup> day of August, 2022 in the presence of the Appellant in person and the learned State Attorney Salum Matibu, for the Respondent Republic. The layman Appellant just adopted the grounds of appeal to form his submissions in support of the appeal in the Court and added that he spent one year and two months in jail as a remand prisoner allegedly pending investigation and failure to meet conditions for bail imposed by the trial court. The Appellant prayed the Court to allow the appeal.

The Respondent Republic took no issues with the appeal as per the grounds of appeal. That, indeed the alleged evidence of identification of the Appellant was wanting as so rightly stated by the Appellant in the 5<sup>th</sup> ground of appeal for want of identification parade and the CCTV camera footage implicating the Appellant with the crime at the scene of crime. That, the elements of the offence of **obtaining money by false pretence** on the 2<sup>nd</sup> and 3<sup>rd</sup> counts were not met accordingly. That, the victim of crime, Maria Zakaria Anyimikyisye (PW5) did not report the alleged crime to police force immediately but on the next day, a conduct that created doubt on the alleged crime, if any.

That, equally the elements of the 1<sup>st</sup> count were not established in the instant case. That, there was a contradiction between Dr. Erasmus Eliakim Mndeme (PW1) and PW5, hence want of credibility of the prosecution case.

Lastly, the Respondent submitted that the prosecution failed to produce the TRA personnel to testify on the ownership of the Car with Registration No. T950 CUV Make Toyota Verossa. The Respondent finalized his submissions by arguing that the prosecution case fell short of being proved beyond reasonable doubt before the trial court.

The Court is in agreement with the parties "*in toto*" that the prosecution case in the trial court against the Appellant was short of proving the three offences beyond all reasonable doubt. The Court just adds that Hashim Yusuph Sadiki (PW4) leaves much to be desired as he is a witness with interest to serve. The Court further wonders that one Kudra Masoli, a TRA personnel Dar es salaam, who features prominently in PW4 and Insp. Ismail Kaitila (PW6)'s testimonies as to the Appellant's involvement in the offence of **impersonating public officer** was not called to testify on the prosecution case before the trial court.

The meritorious appeal is hereby allowed accordingly. The conviction and sentences, respectively, are hereby severally and together quashed and set aside. The Appellant shall be released forthwith from prison unless there was lawful cause.



  
GEORGE M. MASAJU

**JUDGE**

31/8/2022