

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
TABORA DISTRICT REGISTRY
AT TABORA**

DC CRIMINAL APPEAL NO. 45 OF 2021

(Originating from Uyui District Court Criminal Case No. 22 of 2021)

JUMANNE S/O SHABANI @ RAMADHANIAPPELLANT

VERSUS

THE REPUBLICRESPONDENT

RULING

Date of Submissions: 29/08/2022

Date of Delivery: 29/08/2022

AMOUR S. KHAMIS, J:

Jumanne Shabani Ramadhani was convicted for rape contrary to Section 130 (1) (2) (a) and 131(1) of the Penal Code Cap. 16 R.E. 2019.

The conviction and thirty (30) years sentence were concurrently made on 10/03/2021 by the District Court of Uyui.

When the appeal was pleaded before me for hearing, Ms. Veronica Moshi, learned State Attorney asserted that the notice was defective.

The appellant contended that the notice was timely issued and presented to prison authorities for onward transmission to Court.

He wondered why the same was lodged after expiry of the statutory time.

Section **361 (1) (a) of the CRIMINAL PROCEDURE ACT, CAP 20, R.E. 2022** provides that notice of intention to appeal should be given within ten (10) days from the date of the finding, sentence or order or in case of corporal punishment only, within three (3) days of the date of such sentence.

The appellant herein was convicted and sentenced on 10/03/2021.

The notice of intention to appeal was signed on 16 March 2021 but presented for filing on 30 March 2021.

Since limitation of time is calculated from the date of presenting the notice in Court and not on the date signed by the intended appellant, the disputed notice of appeal was given about twenty (20) days after date of conviction and sentence.

Consequently, the said notice is defective and cannot support the present appeal.

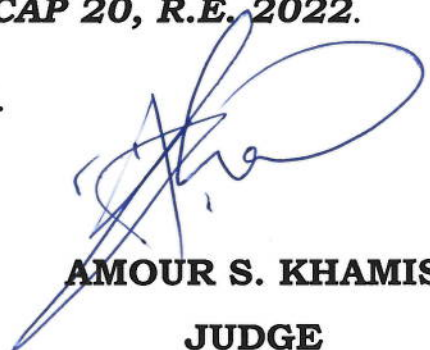
It follows therefore that the present appeal is defective and thus struck out.

For the interests of justice, the appellant is hereby granted leave to present a fresh notice of appeal and petition of appeal within ten (10) and forty five (45) days respectively from date of delivery of this ruling.



The order is made in terms of Section 361 (2) of the **CRIMINAL PROCEDURE ACT, CAP 20, R.E. 2022.**

It is so ordered.



AMOUR S. KHAMIS

JUDGE

29/08/2022

ORDER

Ruling delivered in chambers in presence of the appellant in person and Ms. Veronica Moshi, State Attorney for the Republic.

Right of Appeal is Explained.



AMOUR S. KHAMIS

JUDGE

29/08/2022