

IN THE UNITED REPUBLIC OF TANZANIA
THE HIGH COURT OF TANZANIA
(DAR ES SALAAM DISTRICT REGISTRY)
AT DAR ES SALAAM

CRIMINAL APPEAL NO. 98 OF 2022

(Originating from Criminal Case No. 114 of 2019 in the District Court of Rufiji)

MAULID JUMA KUYANGAAPPELLANT

VERSUS

THE REPUBLIC.....RESPONDENT

RULING

Date of Last Order: 29/09/2022

Date of Ruling: 29/09/2022

Kamana, J:

The Appellant one **Juma Kuyanga** was charged with and convicted of an offence of armed robbery by the District Court of Rufiji. It was alleged by the Prosecution that on 29th day of June, 2019 about 06.30 Hrs. at Jaribu – Mpakani village within Kibiti District, Coast Region, the Appellant did steal three handbags valued at **Tshs.** 100,000/= and Tshs. 300,000/= in cash,

the properties of Josephine Joseph. It was alleged that immediately before and after the stealing the Appellant used the knife to threaten the complainant with the view to obtaining and retaining the said properties.

Aggrieved by the decision of the trial Court, the Appellant filed a notice of appeal dated 25th December, 2019 which was subsequently followed by the Petition of Appeal which was filed on 30th May, 2022.

When the appeal was called on for hearing, the Appellant appeared without legal representation whilst the Respondent was ably represented by Ms. Sophia Bimbiga, learned State Attorney.

When she took the floor, the learned State Attorney raised a preliminary objection to the effect that the notice of appeal filed by the Appellant is defective. In substantiating her objection, the learned State Attorney submitted that it a position of the law that a notice of appeal that is intended to challenge the decision of the lower Court should bear the tittle **“IN THE HIGH COURT OF TANZANIA”**.

She contended that the notice of appeal filed by the Respondent is titled **“IN THE DISTRICT/RESIDENT MAGISTRATES’S COURT OF RUFUJI”**. To her the said notice was defective and prayed that the Appellant should abide by the procedure with a view to filing a proper notice of appeal. In

that regard, the Court was referred to the case of **Farijala Shaban Hussein and Another v. Republic**, Criminal Appeal No. 274 of 2012. In summing up, the learned State Attorney prayed that the appeal be struck out by the Court.

The Appellant, being a lay person, did not have much to say with regard to the point raised by the learned State Attorney.

Having considered the submission of the learned State Attorney, I am of the view that the notice of appeal filed by the Appellant is defective for not being titled “**IN THE HIGH COURT OF TANZANIA**”. These views of mine are fortified by the decision of the Court of Appeal in the case of **Farijala Shaban Hussein (Supra)** in which it was held that a notice of intention to appeal under section 361(1) (a) should be titled. “**IN THE HIGH COURT OF TANZANIA.**” The Court of Appeal reached that position in a bid to strengthening procedural requirements that are consistent and certain. In view of that, I subscribe to that reasoning of the Court of Appeal and hold that the filed notice of appeal as filed by the Applicant is defective.

That being the position, the Appeal before this Court crumbles for the want of a valid notice of appeal. I forthwith struck out the appeal. The Appellant

is at liberty to file a new appeal after following the necessary procedures as per the law including those relating to limitation.

It is so ordered.

Right to appeal explained.

DATED at DAR **ES SALAAM** this 29th **day** of September, **2022**.



KS Kamana

JUDGE



COURT: Ruling delivered in the presence of both parties.