

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

CRIMINAL APPELLATE JURISDICTION

DC CRIMINAL APPEAL NO. 36 OF 2022

(Originating from the District Court of Handeni at Handeni Criminal Case No. 130 of 2019)

SAID SELEMAN MOHAMED----- APPELLANT

VERSUS

REPUBLIC-----RESPONDENT

Date of last order: - 19/10/2022

Date of Judgment: - 19/10/2022

JUDGMENT

L. MANSOOR, J

The Appeal was not opposed, and while it is true as submitted by the Learned State Attorney that there was business transactions between the complainant, PW1 and the Appellant and as reflected in the proceedings that the Appellant was trading with the complainant as the Agent of MOGAS, and had been supplying MOGAS products to the complainant. The appellant is known

to the complainant (PW1) for some time as the person she has been trading with as the Agent of MOGAS and previous trade relationship between them existed. There were money and products passing from one party to the other, and the business transactions completed with no problems at all.

That there was personal arrangement between the Appellant and the complainant (PW1), which clearly shows that the arrangement cannot amount to false pretence. It is also true that the prosecution failed to prove each ingredient of false pretence beyond reasonable doubt. It is also true that since there were contractual relationship, between the appellant and the complainant, and if at all there was a breach of any term of the contract, the remedy available to any party to the contract was to sue for breach of contract in Civil courts. There was no elements of false pretence in the transactions.

For the above stated reasons, the appeal is allowed. The orders for conviction, and sentence passed by the District Court of Handeni in Criminal Case No. 130 of 2019 are

quashed and set aside. The order requiring the Appellant to pay the money obtained through false pretence after completion of sentence passed by the Trial Magistrate on 28/04/2022, is also quashed and set aside.

Appeal allowed.




L. Mansoor,

Judge

19/10/2022.