

**IN THE HIGH COURT OF TANZANIA**  
**AT DAR ES SALAAM**  
**CRIMINAL APPEAL NO. 130 OF 2021**

*(Originating from Criminal Case No. 380 of 2019 of the District Court of Kinondoni at Kinondoni)*

**HUSSEIN KIMWINYI SHARIFU.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

Coram : Hon. A. R. Mruma,DR  
For the Appellant : Present  
For the Respondent : Ms Florida Wenscelaus  
Cc : Mwangoka

**ORDER:**

I have carefully gone through the Appellant's ground of appeal and the submissions of the learned State Attorney. The Respondent/ Republic is supporting the appeal. They have come out clearly and concede that during the trial they did not manage to prove their case to the tilt.

Because it is the Respondent/ Republic who charged the Appellant~~s~~, and it is the same Republic which says they did not prove their case, this court cannot have a different view. Having a different view will be tantamount to court <sup>wearing</sup> ~~wearing~~ the shoes of the Republic and become the complain<sup>ant</sup>~~t~~. Thus, as the complainant has (on second reflection) conceded that it had not proved its case beyond reasonable doubt~~s~~, this court has no option but <sup>to</sup> ~~to~~ allow the Appellant's appeal as prayed by both the Appellant and the Respondent/ Republic.

Accordingly I allow the appeal, set aside conviction and sentence meted against the Appellant and order for his immediately release from prison unless he is held for any other lawful cause.



A.R Mruma

**Judge**

**1/3/2022**

**Court:**

Reasons for judgment will be given in the due cause and on the date that shall be communicated to parties.

A.R.



A.R Mruma

**Judge**

**1/3/2022**