

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

AT TABORA

MISC. CRIMINAL APPLICATION NO. 43 OF 2021

(Originating from Tabora Resident Magistrate Court in Economic Case
No. 40/2019)

PASCHAL NZIBARA @ KAGOMA.....APPLICANT

VERSUS

THE REPUBLICRESPONDENT

RULING

Date: 21/3/2022 & 25/3/2022

BAHATI SALEMA, J.:

The applicant, **Paschal Nzibara @Kagoma** herein lodged this application under the provisions of Section 361(2) of the Criminal Procedure Act, Cap. 20 [R.E 2019] and Section 14 of the Law of Limitation Act, Cap. 89. It is supported by an affidavit sworn by the applicant.

The applicant is praying for the following orders:

- 1. An application for extension of time to file both the notice and petition of appeal be granted*
- 2. Any other order as this honourable court may deem fit and just to grant in the circumstances of this application.*

When the matter was called for hearing, the applicant was self-represented while Mr. Kajiru Miraji Senior State Attorney for the Republic.

In his submission, the counsel for the applicant prayed for this court to adopt his affidavit to form part of the submission. The affidavit in support of the application reveals that; he was arraigned before the Resident Magistrate's Court of Tabora for three counts of the offences of Unlawful Possession of Government Trophy and Ammunitions, found guilty, convicted and sentenced to serve a custodial sentence of twenty years in jail. Dissatisfied, he appealed to this Hon. High Court in DC. Criminal Appeal No. 37 of 2020 where the conviction was quashed, the sentence set aside, and the original file to be remitted to the trial court to comply with the requirements of the law in composing the judgment. (Hon. A.A. BAHATI, J dated 19/3/2021) .On 15/6/2021, the judgment was recomposed, and he gave a fresh notice of appeal to the trial court on June 19, 2021. To date, he had not been supplied with the recomposed judgment by the trial court for me to be able to marshal

his appeal to this Hon. Court, hence this application. There is a point of law involved in a decision sought to be appealed against of sufficient importance, touching on the priority of the conviction, in that the same was entered against the weight of the evidence adduced. That, the error alluded to in paragraph 6 above, greatly occasioned injustice to his party. He prayed now that this Hon. High Court be pleased to enlarge the time sought in this application so that he could move the court, through appeal, to correct the error alluded to in paragraph 6 above.

It is trite law that in an application for an extension of time, the applicant must show a reasonable cause for delay.

In the present case, the applicant demonstrated that he wasted no time in pursuing the right of appeal. Upon perusal of the application and the trial court's records, I noted that immediately after delivery of judgment and pronouncement of sentence, the applicant registered his notice of intention to appeal. It is on record that the applicant timely applied for copies of the judgment and proceedings, which, unfortunately, were not supplied to him on time.

Therefore, I am convinced that the applicant did not idly sit on his right of appeal but rather employed the necessary efforts to meet the ends

of justice. For the aforesaid reasons, the applicant has shown sufficient cause for an extension of time and the application is thus granted.

The applicant to file a fresh notice of appeal within 10 days and a petition of appeal within 30 days from the date of this ruling.

Order accordingly.



A. BAHATI SALEMA

JUDGE

25/5/2021

Ruling delivered under my hand and Seal of the court in Chamber this 25th day March, 2022 in the presence of both parties.



A. BAHATI SALEMA

JUDGE

25/03/2022

Right to appeal is fully explained.



A. BAHATI SALEMA

JUDGE

25/03/2022

