

IN THE HIGH COURT OF TANZANIA
(SUMBAWANGA DISTRICT REGISTRY)
AT SUMBAWANGA

MISC. CRIMINAL APPLICATION CASE NO. 42 OF 2022

*(Arising from Original Criminal Case No. 23 of 2021 in the District Court of
Sumbawanga at Sumbawanga)*

ALKADO ^S/_o MNYEMA1ST APPLICANT

CHRISANT ^S/_o VELERIANO2ND APPLICANT

VERSUS

THE REPUBLICRESPONDENT

RULING

23rd February, 2023

1st March, 2023

MRISHA, J.

The applicants are primarily praying for extension of time within which to lodge a notice of intention to appeal and petition of appeal to this court out of time. The application is preferred under provision of section 361(2) of the Criminal Procedure Act, [Cap 16 R.E 2019]. It is supported by two affidavits duly sworn by both applicants respectively.

The basic reasons for this application, as appeared in the unopposed applicants' affidavits, are clear; they are: - **first**, that they lodged a notice of intention to appeal on time, but when the appeal come for hearing, it was discovered that the notice of appeal was defective as it has addressed the District Court instead of High Court. **Secondly**, the failure to lodged proper notice of appeal is not something to blame them as they were in prison; they were depending on the Prison Authority to lodge proper notice of appeal to the proper Court.

At the hearing of this application, the applicants appeared in person, while the respondent was duly represented by Ms. Safi Kashindi, learned State Attorney. Meanwhile, the applicants reiterated their averment in their affidavits as their submissions.

The respondent supported the application for the reasons that the applicant's reasons are genuine, and the law allows under section 361(2) of the Criminal Procedure Act, Cap 20 R.E. 2022, that the High Court may grant extension of time where the parties provide genuine reasons.

Since the respondent does not object the application, the application ordinarily ought to be granted. It therefore, my view that the applicants have assigned sufficient reasons for the delay; hence they cannot be

blamed on the same, rather it is the Prison Authority which was supposed to lodge proper notice of appeal to the proper Court.

For those reasons, the application is granted. The applicants are given 10 days within which to lodge their notice of appeal from the date of this ruling. The next steps of filling the applicant's appeal should be in accordance with the Criminal Procedure Act, [Cap 20 R.E. 2022].

It is so ordered.

Dated at Sumbawanga this 1st day of March, 2023.




A.A. MRISHA
JUDGE
1/3/2023