IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE SUB REGISTRY OF MANYARA

AT BABATI

CRIMINAL APPEAL NO. 21 OF 2023

(Originating from Criminal Case No. 34 of 2022 before Kiteto District court)

HAROUN JAPHET @ KANUMBA .....1ST APPELLANT

JACKSON FARAO NJOLIBA .....2ND APPELLANT

VERSUS

THE REPUBLIC..... RESPONDENT

JUDGMENT

30th June & 10th July, 2023

Kahyoza, J.:

The trial court convicted **Haroun Japhet @ Kanumba,** and **Jackson Farao Njoliba** (the appellants) with one of count of unnatural offence and sentenced them to life imprisonment. The prosecution alleged that **Haroun Japhet @ Kanumba,** and **Jackson Farao Njoliba,** had carnal knowledge of a girl, whom I refer to as **YY,** against the order of nature. The prosecution alleged further that **YY,** the victim, was 10 years old. Displeased by the both, the conviction and sentence, the appellants appealed alleging that the prosecution did not prove the case beyond reasonable doubt and that it did not consider the appellants' defence of *alibi.*

The appellants' petition of appeal of appeal had two grounds of appeal which raised two issues-

1. did the trial court ignore the appellants' defence of *alibi*?
2. did the prosecution prove the appellants guilty beyond reasonable doubts?

A brief background is that: The police arraigned **Haroun Japhet @ Kanumba,** and **Jackson Farao Njoliba** (the appellants), before the District Court of Kiteto at Kibaya with unnatural offence contrary to section 154 (1) (a) and (2) of the Penal Code, [Cap 16 R.E. 2019 now 2022] (the Penal Code). The prosecution evidence was that **YY,** a pupil at Orkine primary school went to visit her uncle at Chitongo. On 23.4.2022 YY went to play with her friends and her uncle went to his farms. At around 08:00 pm the appellants went to a place where the victim was playing with her friends, Neema and Rachel. The victim referred to the appellants as Kanumba, the first appellant (the first accused person) and Rasi, the second appellant (second accused person).

The appellants accused the victim of stealing their phone. They took her from her friends, led her to Bwawani, a place with water and ordered her to undress. She complied. Then, Kanumba took off her pair of trousers

and inserted his manhood into the victim's anus. She felt pains and cried. The victim narrated that Rasi, the second appellant, seeing her crying he closed her mouth by his hand. After Kanumba finished sodomizing her, Rasi took his turn. Rasi like Kanumba inserted his manhood into the victim's anus.

After both finished sodomizing the victim, they took her to Rasi's house, tied her legs and hands. Rasi put a knife on her chest and told her that when he comes from fishing he will kill her and throw her body in to a dam. They left her alone tied up in the house. The victim spent a night in that house with her hands tied up until the following day. On the following day that is on 24.3.2022, the victim shouted for help. One Neema, helped her to get out of the house, as she was not living very far from where she was held captive.

The victim went to report the incident to the office. On her way, she met three militiamen and narrated to them her ordeal. The victim mentioned Rasi and Kanumba as the culprits.

The victim's mother confirmed how she got information that her child was sodomized whilst at to her brother's place. She went and confirmed the allegations. Ernati Jackson (**Pw4**) deposed that at around 1:00pm two women went with a younger girl and told him that they found her crying

claiming to have been sodomized and beaten by Rasi and Kanumba. He took them to Safari Feo (**Pw3**), the hamlet chairman. They did not find him at his place. He gave the woman the cell-phone number of Safari Feo (**Pw3**). They rang him.

Safari Feo (**Pw3**) responded to the call and had time to hear the victim. The victim told him that Kanumba and Rasi sodomized her and beat her on the allegation that she stolen their phone. Safari Feo (**Pw3**) knew Kanumba but did not know Rasi. However, Ernati Jackson (**Pw4**) knew Rasi. Safari Feo (**Pw3**) took militiamen and searched for the suspects. He managed to arrest Kanumba who told them that Rasi left the area and told them that it was Rasi who beat the victim because she stole his phone. They went to Rasi's home as they did not find him they arrested Rasi's wife. He wrote a letter and sent the victim, Kanumba and Rasi's wife to police station at Kibaya.

On 25.4.2022 the police took the victim for medical examination. Donald Efraim Kweka (**Pw5**) examined the victim. He found bruises to the child's neck, face, and hands. He saw discharge on the child's thighs which were smelling. He saw bruises to the victim's anus. He confirmed that she was penetrated. Donald Efraim Kweka (**Pw5**) tendered a PF.3 as exhibit P.E. 1. Donald Efraim Kweka (**Pw5**) described what he discovered in the

PF.3 that, the victim had "perennial tear" from the anus, anal sphincter was somehow loose (not intact). He endorsed on the PF.3 that the labia majora and minora were intact.

Haroun Japhet, the first appellant gave his defence on oath that the case was fabricated against him. He pointed out the contradiction in the prosecution's evidence. He deposed that the victim said that she was taken to the office by militiamen while the village chairman testified that the victim was taken to his office by two women.

Jackson Farao, the second appellant denied to commit the offence on oath and raised the defence of *alibi.* He stated that the offence was committed on the day and time he was at his farm. He denied to know neither Kanumba nor the victim.

After considering the evidence by both sides, the district court believed the prosecution's case, found the appellants guilty, convicted and sentenced them to life imprisonment.

The appeal proceeded orally. Mr Festo, learned advocate, appeared for the appellants and Ms. Blandina, the learned State Attorney represented the respondent, the Republic. The appellants' advocate abodoned one ground of

appeal. He argued only one ground of appeal that the prosecution did not prove the appellants guilty beyond reasonable doubt.

This is a first appellate Court, apart from considering the ground of appeal, I have a duty to re-evaluate the whole evidence on record.

Did the prosecution prove the appellants guilt beyond reasonable doubt?

The appellants' advocate submitted strongly that, the prosecution did not prove the appellants guilty beyond reasonable doubt. He argued that, while the victim deposed that, the appellants took her while she was playing with Neema and Rachel, the prosecution failed to call neither Neema nor Rachel to testify. He added that the prosecution failed to call the victim's uncle to testify while the victim's evidence was that she was at her uncle's place called Pori Kwa Pori No. 1. The prosecution did not state or show where the victim's uncle was at the time the offence was committed. The prosecution did not state whether they interrogated victim's uncle, the appellants' advocate added.

The appellants' advocate contended that the prosecution failed to connect the discharge found on the victim's thighs by the doctor with the appellants. He added that the prosecution failed to bring evidence to

establish that the victim stole a cellular phone belonging to one of the appellants. He contended further that, the trial court did not consider the appellants' defence that they neither knew the victim nor knew each other. He added that the second appellant testified that he had quarrels with the hamlet chairman but no weight was given to that defence.

He concluded that it was dangerous to rely on the evidence of victim only to convict the appellants. To support his contention, he cited the case of **Hamis Kahilfan Daud v. R.**, Criminal Appeal No. 231/2009. He prayed the court to allow the appeal, set aside the conviction and free the appellants.

Ms. Blandina, the respondent's state attorney replied that the prosecution established the appellants guilty beyond reasonable doubts, hence, she supported the conviction and sentence imposed. She was emphatic that the victim identified the appellants and explained how they sodomized her. She added that the trial court recorded the evidence and concluded that the appellants had carnal knowledge of the victim against the order of nature, they sodomized her. She submitted that the best evidence of proof of sexual offences as held in the case of **Selemani Hassani vs Republic** (Criminal Appeal No. 203 of 2021) [2022] TZCA 127 (22 March

2022) must come from the complainant. She added that the Court of Appeal warned that since the offence of rape is committed between two people, hence the evidence of the victim is crucial and it must be scrutinized cautiously. She averred that the appellants raped the victim. The victim identified them and mentioned them at all stages. The victim mention the appellants to people who escorted her to village leaders, to those who escorted her to police and to the police. She cited the case of **Shomari Mohamed Mkwama vs Republic** (Criminal Appeal No. 606 of 2021) [2022] TZCA 644 (21 October 2022) where the Court of Appeal held that-

> *It is now established in our jurisdiction that the ability of a victim of any crime to name a suspect at the earliest possible opportunity after the incidence, attests to the credibility and reliability of that witness and his or her evidence.*

The respondent's state attorney submitted further that the doctor's evidence and the PF.3 corroborated the victim's evidence that she was sodomized. The doctor testified that he found bruises in the victim's anus. As to why the children who were playing with the victim were not called to testify, the State Attorney submitted the prosecution summoned relevant or vital witnesses and that section 143 of the Evidence Act, [Cap. 6 R.E. 2022]

(the Evidence Act) does not provide for a number of witnesses to be summoned to prove the case.

She submitted the appellants' contention that they did not know the victim was unjustified as they did not cross-examine her whether she knew them. As to the contention by the second appellant that he had misunderstanding with the village chairperson that is why the later fabricated the case against him, Ms. Blandina submitted that it was an afterthought. She argued that the chairperson gave evidence and the second appellant had an opportunity to cross-examine him. However, the second appellant did not ask him any question to point out the animosity.

In his brief rejoinder, the appellants' advocate submitted that the prosecution did not prove the appellants guilty beyond reasonable doubt. He insisted that the prosecution did not call evidence to establish that they saw the appellants taking and returning the victim. He prayed the appeal to be allowed.

Was the victim carnally known against the order of nature?

The appellants were convicted of with the one count of unnatural offence under section 154.-(1)(a) of the Penal Code. The prosecution was required to prove only one element of the offence which is that the

appellants **had carnal knowledge of the victim against the order of nature.** Section 154(1) (a) states that-

> ***"154.**-(1) Any person who-*
> *(a) has carnal knowledge of any person against the order of nature;*
> *(b) N/A*
> *(c) N/A,*
> *commits an offence, and is liable to imprisonment for life and in any case to imprisonment for a term of not less than thirty years."*

It is settled, as submitted, that in sexual offences the best evidence is that of the victim, as per this Court's decision in **Selemani Makumba v. R** [2006] T.L.R. 379, the case of **Selemani Hassani vs Republic**, (supra) and **Hamis Kahilfan Daud v. R,** (supra). It is also settled that the evidence of the victim of sexual offences should not be taken as a biblical truth it must be subjected to scrutiny to test the witness' credibility. See the **Mohamed Said v. R.**, Cr. Appeal No. 145/2017 and **Akwino Malata vs Republic** (Criminal Appeal No. 438 of 2019) [2021] TZCA 506 (21 September 2021). The Court of Appeal in the latter case had this to say-

> *"This is a principle of law to the effect that the evidence of sexual offence has to come from the victim* ***and if the court is satisfied that the victim is telling the truth it can convict without requiring any corroborative evidence."***

The task of this Court is to find out if the trial court was appropriate to rely on the victim's evidence to convict. The victim, a girl of 10 years old testified after making a promise to tell truth and nothing but truth. The record does not indicate if the trial court asked the victim question(s) before she made a promise to tell truth. I am aware of the requirement of section 127(2) of **the Evidence Act**, which requires the witness to promise to tell the truth and not lies. I am also alive of the interpretation that section has been subjected to by this Court and the Court of Appeal. The Court of Appeal has in cases without number held that before the witness of tender age makes a promise under section 127(2) of **the Evidence Act**, the court must ask the witness questions. To mention a few of those cases are **Geofrey Wilson v. R.**, Criminal Appeal No. 168 of 2018 and **Wambura Kiginga v R.**, Criminal Appeal No. 301 of 2018. In **Geofrey Wilson v. R.**, the Court of Appeal stated-

> *"...the trial court **should at the foremost, ask few pertinent question so as to determine whether or not the child witness understands the nature of oath**. If he replies in the affirmative then he or she can proceed to give evidence on oath or affirmation depending on the religion professed by such child witness. If such child does not understand the nature of oath, he*

*should be before giving evidence, be required to promise to tell the truth and not to tell lies." (**Emphasis supplied**)*

Going by the holding of the Court of Appeal in **Geofrey Wilson v. R.,** (supra) it is obvious the trial court should ask questions to find out whether the witness of tender age *understands the nature of oath*, if he does not, then the witness must make a promise. Thus, questions, which should be asked by the trial court before a witness makes a promise, are not intended to find out if a witness of tender age is competent to make a promise under section 127(2) of **the Evidence Act** or not. A requirement of a witness of tender age to promise to tell the truth and not to tell lies is a legal requirement, which that witnesses must comply with. It is like a requirement to swear or affirm before testifying of which a witness above tender age must abide to. I am of the decided view that, once a witness of tender age makes a promise under section 127(2) of **the Evidence Act,** his evidence is as good as of a witness above tender age who swears or affirms under section 198 of the **Criminal Procedure Act**, [Cap. 20 R.E. 2022]. I find support in the decision of the Court of Appeal in **Issa Salum Nambakula v. Republic,** Criminal Appeal No. 272 of 2018 (unreported) as follows: -

"... under the current position of the law, if the child witness does not understand the nature of oath, he or she can still give evidence without

taking oath or making an affirmation but must promise to tell the truth and not to tell lies."

I am of the view that section 127(2) of **the Evidence Act** was complied with. That done, the next question is whether the victim was carnally known against the order of nature. The victim deposed that while she was playing with her friends, Neema and Rachel, the appellants accused her of taking or stealing their phone. They took her to Bwawani undressed her and Kanumba had carnal knowledge of her against the order of nature first, followed by Rasi. She testified that her attempt to cry for help was abortive as Rasi closed her mouth. She felt pains. After they finished, the appellants took the victim to Rasi's house, tired her hands and legs and left her in the house until the following day. She narrated that on the following day she managed to shout for help and Neema assisted her out. The matter was reported to police and later the victim was handed to Donald Efraim Kweka (**Pw5**) for medical examination.

Donald Efraim Kweka (**Pw5**) confirmed that the victim was sodomised, that is she carnally known against the order of nature. He deposed that the victim had bruises in her anus and a smelling discharge on her thighs,

indicating that the victim was sodomized. He filled a PF.3 where he indicated that the victim's sphincter muscles were loose.

Like the trial court, I have no scintilla of doubt that the victim was carnally known against the order of nature. To affirm my position, I read the victim's account of the event. She deposed-

> *"They took me to Bwawani where there is water, they told me to remove my clothes (she started tearing (sic) crying). I removed them. Kanumba removed his trouser[s], he (sic) took his penis and inserted it into my anus. I started to cry Rasi closed my mouth with his hands. Then after Kanumba, Rasi also removed his penis from his trouser[s] and inserted it into my anus [she is crying unstoppable (sic)]."*

Given the nature of the evidence of the victim, it is hard to hold that the victim was not sodomized. Even the appellants did not refute a fact that the victim was raped before the trial court. The appellants have not also questioned whether the victim was sodomized before this Court. The appellants defence was that they did not commit the offence. I will come to that issue later. I find that the prosecution proved beyond reasonable doubt that the victim was carnally known against the order of nature. She was sodomized.

Did the appellants have carnal knowledge of the victim against the order of nature?

Having found that the prosecution proved beyond all reasonable doubt that the victim was sodomized or that she was carnally known against the order of nature, the remaining question is whether the appellants are culprits. The appellants denied to commit the offence. The trial court did not find merit in their defence. It found the first appellant's defence not raising doubts in the prosecution's evidence. It also found the second appellant's defence of *alibi* an afterthought as he raised it without complying with section 194 of the CPA and raised during the defence. It did not pinch holes in the prosecution's recognition evidence.

The appellants complained before this court through their advocate that the prosecution failed to prove the appellant guilty for its failure to summon either Neema or Rachel. The victim alleged that the appellants went to the place she was playing with Neema and Rachel, accused her of stealing their phone and took her to Bwawani where they sodomized her. The appellant's advocate submitted that it was vital for the prosecution to summon the victim's uncle as the victim alleged that she was sexually abused when she was at her uncle's place. Failure to summon the victim's uncle left reasonable doubts, he submitted. He also questioned why the person who

opened the door to let the victim escape from Rasi' house was not summoned. He contended failure to summoned the witnesses he mentioned, left doubts to the prosecution's case.

The state attorney who appeared for the respondent replied that the prosecution summoned key witnesses and the law of **Evidence Act** does not compel them to summon a certain number of witnesses. She had added that the victim of sexual offence, who is was a key witness testified and that the witness was credible.

I have considered the appellants' advocate's submission that it was vital to summon either Neema or Rachal, and the victim's uncle. There is no doubt that the evidence of Neema or Racheal would have proved only that the appellants alleged that the victim stole their phone and took her to unknown place. Their evidence would not have proved that the victim was sexually abused. Not only that but also, the victim's uncle's evidence would have proved that the victim paid him a visit. It would not have proved the offence of sexual abuse.

I agree with the appellants' advocate that the prosecution left doubts as to whether the victim paid a visit to his uncle, whether the appellants snatched her while playing with Neema and Rachel and whether she was locked in Rasi' house. Looking at the evidence as whole, I find the issue

whether the victim visited her uncle settled by the evidence of Safari Feo (**Pw3**) who was the hamlet chairperson of Pori Namba Moja. The victim deposed that she visited her uncle at Pori Namba Moja. All in law the law is definite that the prosecution is bound to prove an accused person guilty beyond reasonable doubts and not beyond all doubts. See section 3(2) of the Evidence Act which states that-

> *(2) A fact is said to be proved when-*
> *(a) in criminal matters, except where any statute or other law provides otherwise, the court is satisfied by the prosecution* ***beyond reasonable doubt*** *that the fact exists;*

The prosecution may, therefore, prove an accused person guilty despite the existence of some doubts provided that they not reasonable. The Court of Appeal in **Chandrankat Joshubhai Patel V.R** Cr App. No 13 of 1998 (CAT) unreported) DSM stated-

> *"remote possibility in favor of the accused cannot be allowed to benefit him. Fanciful possibilities are limitless and it would be disastrous for the administration of criminal justice if they were permitted to displace solid evidence or dislodge irresistible inferences."*

Further the Court of Appeal made an observation in **Magendo Paul and another V.R** [1993] TRL 219 (CAT) similar to the case of **Chandrankat Joshubhai Patel V.R** (supra) that-

"If the evidence is so strong against an accused person as to leave only a remote possibility in his favor which can easily be dismissed, the case is proved beyond reasonable doubt"

The victim's evidence is very strong. She explained how the appellants sodomized her in turn. The victim knew the appellants before the fateful date. She mentioned their names by their common names. She named the first appellant as Kanumba. Safari Feo (**Pw3**) and Ernati Jackson (**Pw4**) immediately identified a person the victim referred to as Kanumba and caused his arrested. She also named the second appellant as Rasi. Safari Feo (**Pw3**) did not know Rasi but Ernati Jackson (**Pw4**) on hearing that name he identified Rasi. The victim described that after the act, the appellants took her to Rasi's house, locked her inside and went to fish.

I considered the evidence that the victim was playing with her friends at 08:00pm according to the proceedings. Under normal circumstance, children from different families do not play outside at 08:00pm. They play at 02:00pm. We all know that time is recorded differently in Kiswahili and English. I am of the view, that given the evidence as whole, time was wrongly recorded. The trial court recorded time in English as if, it was recording the proceedings in Kishwahili. The victim was playing at 02:00pm as opposed to what it reads 08:00pm

The victim named the appellants to the people who escorted her to Ernati Jackson (**Pw4**) and later to the she named them to Safari Feo (**Pw3**). Acting on the victim's account, Safari Feo (**Pw3**) took militiamen and arrested the Kanumba and Rasi's wife immediately as they could not find Rasi at his home place. It is now settled as the Court of Appeal held in **Shomari Mohamed Mkwama vs Republic,** (supra) that-

> *"the ability of a victim of any crime to name a suspect at the earliest possible opportunity after the incidence, attests to the credibility and reliability of that witness and his or her evidence."*

I find that the victim was credible as she mentioned the appellants *at the earliest possible opportunity after the incidence.* She knew the first appellant, whom she named Kanumba as he was leaving close to her uncle's place and that Rasi used to visit Kanumba.

The appellants complained that the trial court did not consider the second appellant's defence that the case was fabricated by the hamlet chairman as they had quarrels. The respondent's state attorney submitted that the second appellant's defence that he had quarrels with the hamlet chairperson was an afterthought.

I totally agree with the state attorney who appeared for the Republic, that the second accused person's defence that the hamlet chairperson

fabricated the case because of the existing misunderstanding was baseless. It was an afterthought. The hamlet chairperson gave evidence as Safari Feo (**Pw3**). The second appellant (second accused person) did not cross-examined him regarding the existing squabbles or the ground of fabricating a case against him.

In addition, as found by the trial court, the victim's evidence was too strong, she established that she was sodomized and accounted how the second appellant participated. The victim's evidence eliminated any possibility that the case was manufactured against the second appellant. The trial court said the following and I totally subscribe to-

> *"Seventh, the accuseds (sic) told this court that this case was framed up due to his conflict with the chairman, but I have closely scrutinized the prosecution evidence and found that Pw1 gave detailed evidence of how the accuseds (sic) sodomized her claiming to have stolen their phones (sic). And how they took their penis and inserted the same into her anus."*

I find no merit in the second appellant's complaint that the case was fabricated out of resentment. The victim established that the second appellant (Rasi) participated in the commission of the offence.

Lastly, the appellants' advocate complained that, the prosecution's failure to tender evidence to corroborate the victim's evidence raised a

reasonable doubt in its case. The respondent's state attorney did not respond specifically to this complaint. She had a general reply that in sexual offences the evidence of the victim is crucial and that the court may convict after scrutinizing the evidence cautiously.

The law is settled as provided that by section 127(6) of the Evidence Act, that a court may convict on the uncorroborated evidence of the victim the court is satisfied that the victim is telling the truth. It reads-

> *"(6) Notwithstanding the preceding provisions of this section, where in criminal proceedings involving sexual offence* ***the only independent evidence is that of a child of tender age or of a victim of the sexual offence,*** *the court shall receive the evidence, and* ***may, after assessing the credibility of the evidence of the child of tender years of as the case may be the victim of sexual offence on its own merits,*** *notwithstanding that such evidence is not corroborated, proceed to convict, if for reasons to be recorded in the proceedings, the court is satisfied that the child of tender age or the victim of the sexual offence is telling nothing but the truth." (Emphasis added)*

Additionally, the Court of Appeal has cemented the above position in cases without number, a few to mention are the cases of **Akwino Malata vs Republic**, (supra), **Shomari Mohamed Mkwama vs Republic** and **Niyonzimana Augustine vs Republic** (Criminal Appeal No. 483 of 2015)

[2016] TZCA 669 (22 February 2016). In **Niyonzimana Augustine vs Republic**, (supra) the Court of Appeal held that-

> *"Section 127(7) [**now section 127(6)**] clearly provides that where the evidence of a victim of rape is credible, it does not require corroboration."*

The trial court found the victim's evidence credible. I have no reason to reverse the finding of the trial court. Thus, since the evidence of the victim was credible, it did not as a matter of law, require corroboration. The trial court was, therefore, justified to rely on the victim's evidence to convict.

Although, the appellants did not complain to this court that the prosecution evidence was contradictory, since they had raised it before the trial court, I resolved to consider it. The victim deposed that, after she left the second appellant's house, met militiamen who escorted her to Ernati Jackson (**Pw4**). Whereas Ernati Jackson (**Pw4**) deposed that the victim was escorted to his home by two women who found her crying.

It is my decided view that the contradiction was minor, it did not go to the root of the matter. The prosecution was duty bound to prove that, the victim was carnally known against the order of nature and the appellants are culprits. It had no duty to establish how the victim reached to Ernati Jackson (**Pw4**)'s home.

It is trite law that contradictions in a particular witness or among witnesses are inevitable but only fundamental contradictions affect credibility of a witness or weaken one's case. Where there are contradictions in any of the testimonies, it is the duty of the trial court to determine whether they are material going to the root of the case or just minor which may be disregarded. The Court of Appeal emphasized the position that minor contradictions must be disregarded in **Marando Slaa Hofu and 3 others v R.,** CAT Criminal Appeal No.246 of 2011 where it held-

> *"Contradictions by any particular witness or among witnesses cannot be escaped or avoided in any particular case. However in considering the nature, number and impact of contradictions, it must always be remembered that witnesses do not always make a blow by blow mental recording of an incidence. As such contradictions should not be evaluated without placing them in their proper context in an endeavor to determine their gravity, meaning whether or not they go to the root of the matter or rather corrode the credibility of a party's case."*

In my considered view, the contradictions, in the present case, are minor. They did not go to the root of the matter; hence, they did not affect the credibility of the victim and other prosecution witnesses.

In the end, I find that the prosecution proved beyond reasonable doubt that the appellants had carnal knowledge of the victim, a girl of 10 years old against the order of nature. The sentence for such an offence is life imprisonment. Section 154(2) stipulates that-

> **"154.-(1) N/A**
>
> **(**2)*Where the offence under subsection (1) is committed to a child under the age of eighteen years the offender shall be sentenced to life imprisonment."*

In the upshot, I dismiss the appeal in its entirety and uphold the conviction and the life imprisonment sentence imposed by the trial court.

It is ordered accordingly.

Dated at Babati this **10th** day of **July**, 2023.

John R. Kahyoza,
Judge

Court: Judgment delivered in the presence of the appellants and Ms. Blandina Msao, State Attorney for the Respondent. Ms Fatina (RMA) is present.

John R. Kahyoza,
Judge
10. 07.2023