

**IN THE HIGH COURT OF TANZANIA**

**MWANZA SUB – REGISTRY**

**AT MWANZA**

**CRIMINAL APPEAL NO. 79 OF 2023**

*(Arising from the Decision of the District Court of Ukerewe at Nansio in Criminal Case No. 6 of 2023 dated 2<sup>nd</sup> June 2023)*

**IBRAHIMU <sup>S</sup>/O JUMA KASSIM.....APPELLANT**

**VERSUS**

**REPUBLIC.....RESPONDENT**

**JUDGEMENT**

*Date of last order: 1<sup>st</sup> November 2023*

*Date of Judgement: 10<sup>th</sup> November 2023*

**MTEMBWA, J.:**

In the District Court of Ukerewe at Nansio, the Appellant was charged with the offences of rape contrary to **section 130 (1) (2) (e) and 131 (1) of the Penal Code Cap 16 [RE 2022]** in the first count and of committing unnatural offence contrary to **section 154(1) (a) of the Penal Code Cap 16 [RE 2022]** in the second count.

In the first count, it was alleged that on 13<sup>th</sup> January 2023 at Kagerege village within Ukerewe District of Mwanza Region, at night, the Appellant did have canal knowledge with one FPM (name withheld) aged 16 years and a form three student at Nduruma Secondary school. In the second count, it was alleged that, at the same place and time, the Appellant did have canal knowledge against the order of nature with one FPM (name withheld) aged 16 years and a form three student at Nduruma Secondary School. The Appellant pleaded not guilty to the charge. Consequently, the prosecution paraded ten (10) witnesses and tendered four (4) exhibits.

Briefly, the victim, on 12<sup>th</sup> January 2023, when she was at Mwanza to his sister Evalike Msafiri she boarded MV Nyehunge to Ukerewe. Upon arriving at Nansio, she called a bodaboda driver by the name of Steven Manyota who came to pick her around 15:30 Hours. However, the said Steven carried two passengers, the victim and another one, as such, she was left at a new petrol station with a pleasant promise that he will be coming back to pick her. Few minutes later, the Appellant showed up and requested her to go together to his home. Then, they left together by a bicycle.

Having arrived at the Appellant's home, the Victim was given some home activities to do like washing utensils and cooking tea and rice. After eating, the Appellant started to undress and pushed her to the bed. Thereafter the Appellant inserted his penis to the victim's vagina and anus. The Victim shouted and cried for help but that did not intimidate the Appellant at all as he continued to do that. Thereafter, they slept up to 06:00 am. The noises and cries for help were heard by the Appellant's fellow tenants, PW2 one Restituta Jeremiah and PW3 one Rosemary Jackson and they came out to see what was going on.

In the morning of 13<sup>th</sup> January 2023, the appellant left leaving the victim locked inside his room. It was when the victim was assisted by PW2 to call her father, PW9 and a ten-cell leader for Mpakani Hamlet, PW4. Then people gathered. When the Appellant came back around 09:00 am, he opened the room and he was also locked inside the room by PW4 together with the victim. PW2, PW3, PW4, PW5 and PW10 testified to have seen the victim limping unable to walk. Before taken to hospital, PW3 examined the victim and it was revealed that she was raped and sodomized. PW8, one Tumai Tumaini Baumba, a

medical doctor, examined the Victim and resolved that she was raped and sodomized and he filled in PF3 (exhibit P2). As said before, the appellant denied the allegations.

Having evaluated the evidence adduced during hearing, the trial court convicted the Appellant in both two counts as charged and was sentenced to serve thirty years in prison on each count, sentences to run concurrently. Dissatisfied, he has filed before this Court a Petition of Appeal with the following grounds;

- 1. That, the appellant was wrongly convicted with fabricated and framed evidence of prosecution which contained much perjury which could not be trusted by the trial court to implicate the appellant as the one who committed the alleged offences.*
  
- 2. That, the appellant was wrongly convicted and sentenced with incredible and unreliable evidence of the prosecution witnesses.*

3. *That in the absence of sufficient and scientific evidence of DNA profile Examination Report it is hardly and impossible to link the appellant with the findings of PW3 and PW8 in their evidence.*
4. *That, the evidence of prosecution side involved inconsistencies and contradictions which sufficiently rendered that evidence unreliable and completely worthless.*
5. *That, the demeanour of PW1 who was the key witness was not properly tested by the trial court to ascertain/determined her truthfulness in the relevant evidence.*
6. *That, the appellant was convicted with un-corroborated evidence of PW1 similarly the evidence of PW2, PWW3, PW4, PW5, PW6, PW7, PW9 and PW10 cannot be acted upon as a corroborative evidence because they did not see the appellant being raping the victim (PW1) in "**flagrante delicto**".*
7. *That, the trial court grossly and incurably erred in the matter of law and fact for failure to consider the appellant's*

*defense. See the case of Hussein Iddi and Another Vs. Republic 1956 TRL 166.*

- 8. That, the indigents like the appellant was neither represented by the counsel under the legal Aid nor been informed of that right at any stage, the act that led to unfair trial.*
  
- 9. That, the documentary evidence as Exhibit P1, P2, P3 and P4 was/were contained nothing weight to implicate the appellant as the sole person who raped and condomized the victim PW1.*
  
- 10. That, the trial court erred in law by convicting the appellant while the prosecution failed to prove their case beyond reasonable doubts.*

During hearing of this appeal, the Appellant appeared in person and the Respondent Republic was represented by Mr. Japhet Ngusa and Mahembega Elias Mtiro, the learned State Attorneys. Hearing proceeded orally. However, the Appellant preferred to submit after the learned state attorneys.

Staging the floor by submitting against the grounds of appeal, Mr. Japhet opposed the Appeal and supported the convictions and sentences meted against the Appellant. On the first ground of appeal he submitted that the evidence adduced casted no doubts that it was the Appellant who committed the offences. He added that Exhibit P1 was a letter from Nduruma Secondary School and exhibited that the Victim was a form three student with registration No. 5048 and was enrolled on 19<sup>th</sup> January 2021. The same exhibit also evidenced that the victim was born on 1<sup>st</sup> July 2006.

Mr. Japhet submitted further that the Victim aged 16 years by that time and the offences were committed in the Appellant's room on 13<sup>th</sup> January 2023 at Kakerege Village within Ukerewe District. He highlighted also on Exhibit P2 (PF3) and added that the same evidenced that the Victim was raped and sodomized. That Exhibit P4 (sketch map) indicated the area of scene where the offences were committed. He said, Exhibit P3 (Victim's under wear) had blood stains of the Victim. He relied also on the evidence of the medical officer, PW8.

The learned state attorney continued to submit that the Victim (PW1) also testified as to what happened on 13<sup>th</sup> January 2023. Her testimonies were supported by PW2, one Rosemary Jackson who testified that she heard the noises and cries for help and witnessed the Victim unable to walk. That at the area of the scene, there were PW4, PW5 and PW6. That PW3 was allowed to examine the Victim and it was discovered that she was raped and sodomized. He cited the case of ***Goodluck Kyando V. R (2006) TLR 16*** where it was held that all witnesses are credible unless proved otherwise.

On the second ground of appeal Mr. Japhet opted to adopt his submissions in chief in the first ground of appeal.

Submitting on the third ground of appeal, Mr. Japhet submitted that there were enough and cogent evidences notwithstanding the absence of DNA test. He added that in rape cases, the best evidence comes from the Victim herself. That what was supposed to be proved was penetration however slit it is. He cited the case of ***Ally Mkombozi V. R (2009) TLR 6***. On this, he finalized by stating that



in view of the credible witnesses available during hearing, there was no need of conducting DNA Test.

Submitting of the fourth ground of appeal, Mr. Japhet narrated that there were no contradictions or inconsistencies on the part of the prosecution witnesses. He cited the case of ***Dickson Elia Nsamba & Another V. R, Criminal Appeal No. 92 of 2007, CA at Mbeya*** where it was held that the court must evaluate as to whether the inconsistencies were minor or touched the root of the evidence.

On fifth ground of appeal Mr. Japhet has little to submit. He said all witnesses were credible unless otherwise proved. On sixth ground of appeal Mr. Japhet adopted what he submitted on fourth ground of appeal.

On seventh ground of appeal the counsel for the Respondent Republic submitted that it is not true that the appellant defense was not considered. He referred me to pages 17, 23 and 26 of the typed Judgement of the trial court and added that the court correctly considered the Appellant's defense. He said that the ground has no

merit at all. He cited the case of *Jafari S/O Musa V. DPP, Criminal Appeal No. 234 of 2019, CA at Mbeya* where it was held that, even if the defense was not considered, the appellate Court may consider it.

The learned State Attorney considered the eighth ground of appeal to have been misplaced. He narrated further that the trial court heard the parties, evaluated the evidence available and in the end justice was done.

Mr. Japhet combined the ninth and tenth grounds of appeal and argued them together. Briefly, he submitted that there was abundance of evidence that the Victim was actually penetrated and the same was proved beyond reasonable doubts. He implored this court to find that the grounds of appeal are meritless and be dismissed accordingly. Lastly, he beseeched that the appeal be dismissed for lack of merits.

The Appellant replied generally on what was submitted by the learned counsel for the Respondent Republic. He submitted that PW8

did not say how he discovered that he was the one responsible for the offences committed. He questioned as to why he was not medically examined by PW8. He attacked the evidence of PW1 (Victim) and narrated that she contradicted herself on what she said at Police and what she testified during hearing.

The Appellant also firmly attacked the evidence of PW2 and PW3 and added further that while the former testified that there were five people at the area of the scene, the later said that there were only two. He contradicted the evidence of PW1, PW2 and PW3 regarding the time when the Victim was crying for help. However, he submitted that he did not know the victim before. He came to see her for the first time in Court. He questioned the evidence of PW6 (second master) and narrated further that there was no evidence that he was teaching at Nduruma Secondary School.

The Appellant also faulted prosecution by not calling other neighbors apart from PW2 and PW3 who were in conflict with him. Lastly, he contended that the Appeal has merits.

In his brief rejoinder, Mr. Japhet prayed to adopt what he submitted before and added that in offenses of this nature, the only issues to be proved is penetration and consent. He re-cited the case of ***Ally Mkombozi (Supra)*** and referred to me section 130 (4) of the Penal Code (Supra). He added that always the best evidence comes from the victim herself. On the issue of PW6 (second heard master) the learned counsel submitted that the documents (Exhibit P1) tendered were not objected by the Appellant. He had then nothing to add.

Having heard the rival submissions by the parties, the issue here is whether the offences of rape contrary to ***section 130 (1) (2) (e) and 131 (1)*** and of committing unnatural offence contrary to ***section 154(1) (a) of the Penal Code (supra)*** were proved to the required standards of the law, that is, beyond reasonable doubts.

It must be noted here that in criminal law, cases are proved beyond reasonable doubts. In ***Ahmad Omari v. Republic, Criminal Appela No. 154 of 2005, CA at Mtwara (unreported)***, the court noted that in a criminal case, the burden of proof is on the

prosecution to prove beyond reasonable doubts. This is in consonant with ***Section 3(2) (a) of the Evidence Act Cap 6 [RE 2019]***. In the famous case of ***John Makolobela Kulwa Makolobela & Another alias Tanganyika Versus Republic (2002) TLR 296***, the court noted;

*A person is not guilty of a criminal offence simply because his defence is not believed; rather, a person is found guilty and convicted of a criminal offence because of the strength of the prosecution evidence against him which established his guilty beyond reasonable doubts.*

Guided by the above, I will determine the grounds of appeal as presented in the Petition of Appeal. On this, I will start with the first ground appeal where the Appellant complains that he was wrongly convicted with fabricated and framed evidence by prosecution as a result he was implicated and ultimately convicted. Mr. Japhet submitted that the evidence adduced casted no doubts that it was the appellant who committed the offense. He relied heavily on Exhibits P1 (a letter from Nduruma Secondary School), P2 (PF3), P3 (yellow

under wear) and P4 (sketch map) and the testimonies of PW1 (the Victim), PW3 (Rosemary Jackson), PW4 (Beseko Juma), PW5 (Masumbuko Tanagwa), PW6 (Michael Edward) and PW8 (Tumai Tumaini Baumba). The appellant faulted the Judgment of the trial court and added that the offence was not proved to the required standards.

During hearing, PW1, the victim, testified that on 12<sup>th</sup> January 2023, having been left at a new petrol station by Steven Manyota with a pleasant promise that he will be coming back to pick her and few minutes later, the Appellant showed up and requested her to go together to his home. Having arrived at the Appellant's home, the Victim was given some home activities like washing utensils and cooking tea and rice. After eating food, the Appellant started to undress and pushed her to a bed. Thereafter the Appellant inserted his penis to the victim's vagina and anus on the night of 13<sup>th</sup> January 2023.

The Victim continued to testify that, at that time, she shouted and cried for help but the Appellant did not stop. That having been

raped and sodomized as such, they slept together up to 06:00 am when the Appellant left by his bicycle leaving the Victim locked inside the room. When the Appellant left the room, the Victim asked for help from one of the tenants to call her father one Patel Abas Mashauri (PW9).

The Victim's testimony was corroborated by PW2 one Restituta Jeremiah and PW3 one Rosemary Jackson who testified that on the fateful night they heard noises and cries for help from the Appellant's room. They came out to see what was going on. In the morning of 13<sup>th</sup> January 2023, the Appellant left by his bicycle leaving the room locked. They also testified to have seen the Victim in the Appellant's room and had an opportunity to examine her and discovered that she was raped and sodomized. They also testified that the Victim was unable to walk due to injuries on her private parts.

Other collaborative evidence came from PW4 one Beseko Juma, a ten-cell leader, who testified to have been informed of the event by PW2. He also informed PW5, Village chairman for Kagerege Village, who in turn informed PW6, the Village Executive Officer.

The evidence reveals further that at the area of scene, both PW2, PW3, PW4, PW5 and PW6 were present and witnessed the Victim limping unable to walk. These witnesses also testified to have seen the Victim in the Appellant's room.

PW8 one Tumai Tumaini Baumba, a medical Officer, testified to have examined the Victim and revealed that she was raped and sodomized. He tendered Exhibit P2 (PF3). He also examined the blood stain on the Victim's under wear (Exhibit P3). The examination was conducted in the presence of PW10 one WP 8915 DC Benadetha. PW6 one Petro A. Mwambane (a second head master) tendered Exhibit P1 evidencing that the Victim was a form three Student at Nduruma Secondary School and that she was born on 1<sup>st</sup> July 2006. PW9 one Patel Abas Mashuri is the father of the Victim and testified that his daughter aged 16 years and was born on 1<sup>st</sup> July 2006.

At page 54 of the Trial Court Proceedings the Appellant (DW1), during cross examination, testified that there were many people at his home on the material day.



terms of the provisions of **section 127 of the Law of Evidence Act, Cap. 6 [R.E. 2019]** is entitled to be believed and be considered as credible and reliable, unless there are cogent reasons as to why he/she should not be so trusted or believed. The credibility and demeanor of the witnesses if shaken may lower the value of the evidence adduced. In ***Yasin Ramadhani Chang'a Vs Republic [1999] T.L.R. 489***, made a general observation in regard to demeanour of a witness, when it stated thus:

*"Demeanour is exclusively for the trial court. However, demeanour is important in a situation where from the totality of the evidence adduced, an inference or inferences, can be made which would appear to contradict the spoken words."*

Expounding further on Yasin Ramadhani case, ***in Nyakuboga Boniface V. R, Criminal Appeal No. 434 of 2016, CA at Mwanza***, the court said,

*What we gather from the above observation, is the fact that observation and assessment of the demeanour of a witness,*

I looked patiently at the testimonies of the prosecution witnesses and the exhibits tendered and noted that prosecution proved that the offences as per the charge were committed against the Victim by the Appellant. I say this because from the above I have no doubt with testimonies of the Victim that she was raped and sodomized on the material day by the Appellant in his room. Her testimony was corroborated by the evidence of PW2, PW3, PW4, PW5, PW6, PW8, PW9 and PW10 and Exhibits P1, P2, P3 and P4. The evidence adduced could not leave the stone unturned. I find therefore that this ground has no merit and I dismiss it.

On the second ground of appeal the Appellant complains that he was wrongly convicted and sentenced with incredible and unreliable evidence of the prosecution witnesses. Mr. Japhet insisted that all witnesses were credible unless proved otherwise.

Indeed, in ***Goodluck Kyando V. R (2006) TLR 16*** the Court observed that all witnesses are credible unless proved otherwise. It follows therefore that any person, who is a competent witness in

*is in the exclusive monopoly of the trial Judge/magistrate. Moreover, besides observing the appearance of the witness, in resolving as to whether the witness is trustworthy and telling the truth, the trial Judge/magistrate, is enjoined to correlate the demeanour of the witness, and the statements he/she makes during his/her testimony in court. If they are not consistent, then the credibility of the witness, becomes questionable.*

The decision in the case of ***Salum Ally Vs Republic, Criminal Appeal No. 106 of 2013 (unreported)*** gave a guide on how an assessment could be made to the evidence given by a witness, as to whether it is credible and reliable to be acted upon or not. The Court stated that:

*on whether or not, any particular evidence is reliable, depends on its credibility and the weight to be attached to such evidence. We are aware that at its most basic, credibility involves the issue whether the witness appears to be telling the truth as he believes it to be. In essence, this entails the ability to assess whether the witness's testimony is plausible or is in harmony with the preponderance of probabilities which a practical and informed person would*

*readily recognize as reasonable in the circumstances particularly in a particular case. The test for any credible evidence is supposed to pass, were best summarized in the case of **AbdaHa Teje @ Ma lima Mabula Vs Republic, Criminal Appeal No. 195 of 2005 (unreported)**, to be:*

- (i) Whether it was legally obtained;*
- (ii) Whether it was credible and accurate;*
- (iii) Whether it was relevant, material and competent;*
- (iv) Whether it meets the standard of proof requisite in a given case, otherwise referred to as the weight of evidence or strength or believability.*

From the above analysis, the assessment of the demeanour and credibility of the witnesses is within the monopoly of the trial Court. However, this court may look at the testimonies both oral and documentary and come up with its own conclusion. From what I have observed, the credibility and demeanour of witnesses adduced were not shaken at all. I concur with the trial court that the witnesses were credible and reliable. I find the second ground of appeal also meritless and I dismiss it.

On the third ground of appeal, the appellant complains that he was convicted in the absence of sufficient and scientific evidence of DNA Test Examination Report. He faulted the findings of PW3 and PW8. Mr. Japhet submitted that there was no need to conduct DNA because PW1 was credible and reliable. He added that the best evidence comes from the Victim herself. The Appellant submitted that there was a need to undergo medical examination.

This will not detain me longer because there has been no requirement that there must be scientific findings before a person is convicted of the sexual offences. What is needed is the credibility and reliability of the witness or evidence. In ***Hamis Shabani @ Hamis (Ustadhi) v. Republic, Criminal Appeal No. 259 of 2010 (unreported)***, the Court observed:

*"... there is no legal requirement that in offences of this kind, 'sophisticated scientific evidence' to link the appellant and the offence is required. It is not the requirement, for example, that the assailant's spermatozoa, red and white blood (or even DNA) should be examined to prove that he is the one who committed the offence. If there is other,*

*independent evidence to implicate the accused with the offence and the court is satisfied to the required 18 standards (that of proof beyond reasonable doubt), that in our view, is sufficient and conclusive.*

The testimonies of PW1 (the Victim), PW2, PW3, PW4, PW5, PW8 and PW10 and Exhibits P1, P2 and P3 left no doubts that the offences were committed by the Appellant. There was no need to conduct the DNA test. I find the third ground of appeal lacking and I dismiss it.

On the fourth ground of appeal, the Appellant complains that the evidence of prosecution side involved inconsistencies and contradictions which sufficiently rendered that evidence unreliable and completely worthless. Mr. Japhet submitted that there were no contradictions on the part of the prosecution case. The Appellant contradicted the evidence of PW2 against PW3 on the time and PW1, PW2 and PW3 on when the Victim was crying for help. Indeed, contradictions and discrepancies should be seen on the face of prosecution case and must be capable of dismantling the whole

Prosecution case. I went through the Prosecution evidence and noted that the contractions on time and number of the people present at the area if scene were minor and are curable but, then could not dismantle the prosecution case. In the case of ***Tafifu Hassan @ Gumbe Versus Republic, Criminal Appeal No. 436 of 2017, CA of Tanzania at Shinyanga***, the court noted;

*It is not every discrepancy in the prosecution case that will cause the prosecution case to flop. It is only where the gist of evidence is contradictory then the prosecution case will be dismantled.*

It follows therefore that the fourth ground of appeal has no merit and I dismiss it.

In his fifth and sixth ground of appeal, the appellant complains that the demeanour of PW1 who was the key witness was not properly tested by the trial court to ascertain her truthfulness. He also complains on being convicted basing on the uncorroborated evidence of PW2, PWW3, PW4, PW5, PW6, PW7, PW9 and PW10 who did not

see him raping the victim. I have already dealt with these issues when I was addressing the issue of demeanour of the prosecution witnesses and how the testimony of PW1 was corroborated by all other prosecution witnesses. I think what I resolved squarely follow under fifth and sixth grounds of appeal. I find nothing substantial and proceed to dismiss them.

On the seventh ground of appeal, the Appellant complains that the trial court grossly and incurably erred by failure to consider his defense. Mr. Japhet earlier on submitted that it is not true that the appellant defense was not considered. He referred me to pages 17, 23 and 26 of the typed Judgement and cited the case of ***Jafari s/o Musa V. DPP, Criminal Appeal No. 234 of 2019, CA at Mbeya*** where it was held that, even if the defense was not considered, this Honourable Court can consider it. I agree with the learned counsel that this is an irregularity which is curable. In ***Masanja Maliasanga Masunga v. R, Criminal appeal No. 328 of 2021, CA at Dodoma***, the court noted;

*We agree that where the trial court or the first appellate court does not consider a party's defence, it is an*



*irregularity but the same is curable. The first appellate court has to consider the defence as a remedy and if it does not, the second appellate court has a duty to consider the defence and make a decision. In this case however, we do not agree with the appellants because, having noted that the trial court did not consider their defence, the first appellate court considered it at pages 234 to 238 of the record of appeal but did not find that consideration of the defence could have changed the course that was taken by the trial court.*

I went through the typed Judgment of the trial court and noted that the Appellant's defense was considered from pages 23 up to 26. The allegations therefore that it was not is unwanting. In the result this ground is dismissed for lack of merit.

On eighth ground of appeal, the appellant complains that he was neither represented by the counsel under the legal Aid nor been informed of that right at any stage, the act that led to unfair trial. I looked at the proceedings and noted that the Appellant was all the time not represented. However, the offences with which the appellant

was charged do not attract automatic provision for legal representation. **Section 310 of the CPA** provides that:

*"310. Any person, accused before any criminal court, other than a primary court, may if right be defended by an advocate of the High Court subject to the provisions of any written law relating to the provision of professional services by advocate".*

Expounding on the above provision the Court in **Masanja Maliasanga Masunga v. R (supra)** the court noted that;

*The law as quoted above provides for a right of an accused person to be defended but it does not make it a mandatory requirement and thus it is upon an accused person, if he so wishes, to request for that service. In terms of section 33 (1) (a) and (b) of the Legal Aid Act [Cap 21 R. E. 2019], the trial magistrate is only required to assess the 26 situation and see if at all an accused person requires legal representation then make an order to that effect and/ or upon prayer by the accused person as it was decided in*

***Maganga Udugali v. Republic, Criminal Appeal No. 144 of 2017 (unreported).***

As said before, the offences with which the appellant was charged do not attract automatic provision for legal representation. Besides, the Appellant did not request for legal representation for trial court to assess and see if there was such need. In the circumstances, the eighth ground of appeal has no merit and I dismiss it.

On the ninth ground of appeal, the Appellant complains that Exhibits P1, P2, P3 and P4 contained nothing to implicate him as the sole person who raped and condomized the victim, PW1. Mr. Jepheth contended that the exhibits tendered supported the conviction. As said earlier, Exhibit P1 as tendered by PW6 evidenced that the Victim was a form three student at Nduruma Secondary School and that she was born on 1<sup>st</sup> July 2006. Exhibit P2 as tendered by PW8 evidenced penetration. Exhibit P3 as tendered by PW10 evidenced that the Victim sustained injuries as result of penetration. And Exhibit P4 as tendered by PW10 evidenced the area of scene. The said exhibits did not directly implicate the Appellant but corroborated the Evidence of

PW1, PW2, PW3, PW4, PW5, PW6, PW8, PW9 and PW10. As said earlier, these witnesses were credible and reliable. In the circumstances, the said exhibits if linked with the testimonies of the said witnesses implicate the Appellant. This ground has no merit and I dismiss it.

Lastly, the Appellant complains that the trial court erred in law by convicting the appellant while the prosecution failed to prove their case beyond reasonable doubts. Mr. Japhet submitted that the offences were proved to the required standards. I have resolved this issue when addressing first ground of appeal. I see no reason to re-address it here. It suffices here to note that the offences to which the Appellant were charged with were proved by prosecution beyond reasonable doubts. The tenth ground of appeal has no merit and I dismiss it.

In the upshot, the appeal is dismissed for lack of merits. The convictions and sentences meted against the Appellant by the trial court are hereby sustained.

I order accordingly.

Right of appeal fully explained.

**DATED** at **MWANZA** this 10<sup>th</sup> November 2023.



  
**H.S. MTEMBWA**  
**JUDGE**