

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

DAR ES SALAAM DISTRICT REGISTRY

AT DAR ES SALAAM

CRIMINAL SESSIONS CASE NO. 108 OF 2021

REPUBLIC

VERSUS

ABDULRAHMAN FUAD RUBEYA SALIM

JUDGMENT

Date of last order: 21/11/2023

Date of judgment: 24/11/2023

A.A. MBAGWA J.

The accused, **ABDULRAHMAN FUAD RUBEYA SALIM** was arraigned in this Court on an indictment of Trafficking in Narcotic Drugs contrary to section 16(1)(b)(i) of the Drugs and Prevention of Illicit Traffic in Drugs Act [Cap. 95 R.E 2002] as amended by Written Laws (Misc. Amendments No. 2) Act No. 6 of 2012. It was alleged, in the particulars of offence, that the accused on the 31st day of January 2014 at Julius Nyerere International Airport within Ilala district in Dar es Salaam region was found trafficking to

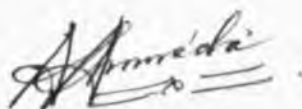


the United Republic of Tanzania 2099 grams of Narcotic Drugs namely, Cocaine Hydrochloride valued at Tanzania shillings One Hundred Eighty-Eight Million, Nine Hundred Ten Thousand (TZS 188, 910,000/=).

The accused pleaded not guilty to the information as such, the matter necessarily went through a full trial.

It is worthwhile to mention that before the commencement of the hearing, the accused informed the Court that he did not want legal representation provided by the Court. He told the Court that he knows better his case than anybody else hence he was not in need of legal services. Consequently, the Court discharged Mr. Fredrick Charles who was assigned to represent the accused. As such, the accused stood in person to defend his case. On the other side, the Republic was ably represented by Estazia Wilson, Edith Mauya, and Amedeus Malya, all learned State Attorneys.

In a bid to prove the allegations, the prosecution called a total of seventeen (17) witnesses along with eight (8) exhibits both documentary and physical. The exhibits tendered for prosecution include; the Chemist Report with Ref No. 95/XXX/III/16 dated 1st April, 2014 (exhibit P1), Certificate of Valuation of Narcotic Drugs and Psychotropic Substances dated 22nd September, 2014



(exhibit P2), One Hundred Forty-Two (142) pellets of Cocaine Hydrochloride together with their covering envelopes (exhibit P3), two passports namely, No. A175081 and A2092241 in the name of Abdulrahman Fuad Rubeya (exhibit P4), air ticket of Abdurahman Fuad Rubeya (exhibit P5), boarding pass of Abdurahman Fuad Rubeya (exhibit P6), National Identification Card of Abdurahman Fuad Rubeya No. 22826398 issued by the Republic of Kenya (exhibit P7) and seven observation forms (exhibit P8).

Briefly, the prosecution account as gathered from the evidence may be recounted as follows; It was contended that on the 31st day of January 2014, upon his arrival from Brazil, the accused was intercepted and arrested immediately after immigration clearance at Julius Nyerere International Airport (JNIA) upon suspicion that he was carrying narcotic drugs. PW9 one ASP GOLIAMA RASHID ILOMO told the court he suspected the accused of dealing with drugs hence he intercepted him and upon preliminary interrogation about his journey from Brazil, his suspicion was augmented. He consequently, arrested accused and put him under restraint for further investigation measures. While under restraint, between 31st day of January, 2014 and 3rd day of February, 2014, the accused emitted, by way of defecation, a total of one hundred forty-two (142) pellets suspected to be

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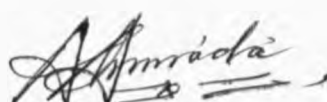
narcotic drugs. The pellets were emitted at different times between 31st January, 2014 and 3rd February, 2014. The emission was done under different supervision of police officers namely, Goliamia Rashid Ilomo (PW7), Dorick Mipango (PW5), and Makole Bulugu (PW12). Further, the defecation was witnessed by independent witnesses including PW4, PW6, PW8, PW10, PW13 to PW17 as exhibited in the observation forms (exhibit P8). All the 142 pellets along with other exhibits seized from the accused were handed to NEEMA ANDREW MWAKAGENDA (PW3) for custody.

Thus, on the 4th day of February 2014, Neema Mwakagenda (PW3) in the presence of PW11 Amina Mwinyi Shoko and the accused took pellets from exhibit room, counted, packed and sealed them in an envelope for transmission to the Government Chemist Laboratory Authority (GCLA). Neema Mwakagenda (PW3), PW11 Amina Mwinyi Shoko and the accused all signed on the sealed envelope. At GCLA, the package was received by PW2, Ziliwa Machibya. It was the testimony of Ziliwa Peter Machibya, the Government Chemist that, upon receipt of the package, he assigned it Laboratory No. 95/2014 and thereafter he proceeded to examine the pellets in the laboratory. Ziliwa stated that he took sample from all 142 pellets and upon preliminary test, he found all 142 pellets to be cocaine hydrochloride.

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In addition, Ziliwa Machibya told the Court that he took three pellets and uncovered them with the view to measure the weight of each pellet. As such, he found that 142 pellets weighed 2099 grams. PW2 stressed that the said weight did not include the covering materials. Later on, PW2 conducted a confirmatory test which confirmed the findings in the preliminary test. Therefore PW2 reduced his findings into a report which was tendered and admitted in evidence as exhibit P1. Upon completion of examination, PW2 packed the 142 pellets in the envelope, sealed and signed on it. He then handed back the sealed envelope to Neema Mwakagenda (PW3), the custodian of the exhibits. Subsequently, the Government Chemist Report (exhibit P1) was submitted to the Commissioner for National Coordination of Drug Control Commission for valuation.

PW7 Keneth James Kaseke, Commissioner for National Coordination of Drug Control Commission testified that he received a letter from the Anti-Drugs Unit (ADU) attached to the Government Chemist Report requesting him to conduct the valuation of the narcotic drugs indicated in the report. By using the information in the Government Chemist Report particularly the type and weight of the alleged narcotic drugs, PW7 valued the drugs in dispute at TZS 188,910,000/= say Tanzania shillings One Hundred Eighty-Eight Million Nine



Hundred Ten Thousand. PW7 stated that, he entered into the database of the Commission and found that, at the material time, one kilogram of cocaine hydrochloride was sold at Tanzania Shilling Ninety Million (TZS 90,000,000/=). Thus, 2099 grams which were equivalent to 2.99 kilograms had the market value of TZS 188,910,000/=. PW7 recorded his findings in the valuation certificate which was tendered and admitted in evidence as exhibit P2.

On account of the above evidence, the accused was arraigned in Court and prosecuted for the offence of trafficking in narcotic drugs. Upon conclusion of the prosecution case, the accused was found with a case to answer.

The accused, on his part, stood a sole defence witness. In his defence, the accused vehemently refuted the accusations. In an attempt to disprove the allegations, the accused tendered in evidence four documentary exhibits namely, statement of Salma Athuma Mwamende (D1), statement of Ziliwa Machibya (D2), statement of Neema Mwakagenda (D3), statement of Makole Bulugu (D4) and committal record of PI No.04/2014 [Criminal Sessions Case No. 139 of 2015] (D5). Exhibits D1 to D4 were tendered during cross examination of the respective prosecution witnesses for purposes of



establishing contradictions in terms of section 154 and 164 of the Evidence Act.

The accused was very brief in his testimony. He testified that he is a Kenyan and a resident of Mombasa. He told the Court that the allegations against him were fabricated. It was the accused's version that on the 31st day of January 2014, he arrived at Julius Nyerere International Airport (JNIA) from Brazil where he had gone to visit his elder brother who had been critically ill. Upon clearance of immigration procedures, he was stopped by an immigration officer who instructed the accused to follow him up to the police station. The accused complied and after reaching the police station, he was asked to provide information about a person whom the police were looking for. The accused, without mentioning the person whose information was sought for, stated that he was unable to give the requested information as he did not know anything about the said person. As such, the accused was transferred from Airport Police Station to Dar es Salaam Central Police Station where he stayed in custody up to the 3rd day of February 2014 when he was taken to the District Court of Ilala but for reasons unknown to him he was returned to Central Police Station. The accused continued to be under the police custody until on the 7th day of February 2014 when he was

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arraigned before the Court of the Resident Magistrate of Dar es Salaam at Kisumu where he was read the charge of drug trafficking. Later on, he was committed to this Court via PI No.04/2014 [Criminal Sessions Case No. 139 of 2015]. However, on the 1st day of September 2021, Criminal Sessions Case No. 139 of 2015 was withdrawn by the prosecution after two prosecution witnesses had testified. The accused further stated that the observation forms which were tendered as exhibit P8 were edited. He also complained that as the statements of Neema Mwakagenda and Dorick Mipango committed in this case are different from what were committed in the first case to wit, PI No.04/2014. Finally, he prayed the Court to find him not guilty and consequently acquit him of the charges.

I have accorded deserving attention to the evidence of both parties. This, being a criminal case, the pivotal issue for determination is whether the prosecution has proved the allegations beyond reasonable doubt. In answering the above issue, I find it pertinent to be guided by the following questions namely,

1. Whether one hundred forty-two (142) pellets (exhibit P3) were emitted by the accused.



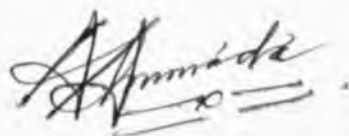
2. Whether the said 142 pellets (exhibit P3) are narcotic drugs namely, Cocaine Hydrochloride.
3. Whether the chain of custody was sufficiently established.

To start with the 1st question to wit, whether the 142 pellets (exhibit P3) were emitted by the accused. The relevant pieces of evidence in this regard are, 142 pellets and fourteen (14) envelopes (exhibit P3), observation forms (exhibit P8), and the testimonies of PW4 Gonzaga Gasto Mwombeki, PW5 Dorick Mipango, PW9 ASP Goliama Rashid Ilomo, PW12 Makole Bulugu, PW6 Bernard Martin Manyanya, PW8 Amir Ally Abbasi, PW10 Welhard Shayo Damian, PW13 Inspector of Immigration Fadhili Festo Msambwa, PW14 Fundisha Ezekiel Mayombola, PW15 Mabenga Sospeter Magonera, PW16 Mcharo Kitua and PW17 Steven Vedastus Selema. Whereas PW5 Dorick Mipango, PW9 ASP Goliama Rashid Ilomo, and PW12 Makole Bulugu are police officers who supervised the accused while defecating the said pellets in fourteen sessions, the rest are independent witnesses who witnessed the exercise. Their evidence is to the effect that on diverse dates between 31st January 2014 and 3rd February 2014, at Julius Nyerere International Airport the accused emitted, by way of defecation, a total of one hundred forty-two (142) pellets. The said pellets were emitted at different times and after every

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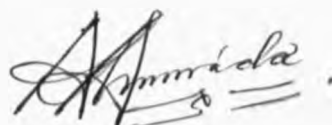
defecation a special form known as observation form (exhibit P8) was filled in to indicate the number of pellets defecated, the time of defecation, independent witness and supervising police officer. Finally the form was signed by the trio namely supervisor, independent witnesses and the accused. Thereafter the defecated pellets were packed in the envelope which was sealed and signed by the trio before the same was handed to the exhibit keeper one Neema Mwakagenda (PW3). Their oral account is supported by the observation forms (exhibit P8) and fourteen (14) envelopes (part of exhibit P3).

I have carefully scanned the observation forms (exhibit P8). They are indicative that the accused emitted a total of 142 pellets. The said forms bear the name, signature, and thumbprint of the accused, among other things. Throughout the trial, the accused did not dispute his signatures on the observation forms nor did he cross-examine on this aspect. This tells it all that the accused admits the contents of the observation forms. It is a settled position of law that where an important matter is not cross-examined, it is taken to have been admitted. See the cases of **George Maili Kemboge vs Republic**, Criminal Appeal No. 327 of 2013 CAT at Mwanza, **Nyerere Nyague vs the Republic**, Criminal Appeal No. 67 of 2010, **Bomu**

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Mohamed vs **Hamisi Amiri**, Civil Appeal No. 99 of 2018, CAT at Tanga and **Athanas Ngomai vs the Republic**, Criminal Appeal No. 57 of 2018, CAT at Dar es Salaam.

Further, in his defence, the accused testified that the allegations against him were concocted. He, however, did not tell the court why would the witnesses fabricate the case against him. During cross-examination, he confirmed to the Court that he had no grudges with any of the prosecution witnesses. I have gone through the testimonies of PW5 Dorick Mipango, PW9 ASP Goliam Rashid Ilomo, and PW12 Makole Bulugu who supervised the defecation exercise. I also appraised the evidence given by independent witnesses as well as their demeanours while testifying in court. I am satisfied that they are witnesses of truth hence credible. Throughout the evidence, I have not come across any piece of evidence to make me disbelieve the testimonies of witnesses who saw the accused defecating the said 142 pellets (142) at Julius Nyerere International Airport. It is the law that every witness is entitled to credence and must be believed unless there are good grounds to disbelieve him. See **Goodluck Kyando vs the Republic** [2006] TLR 363 and **Alberto Mendes vs the Republic**, Criminal Appeal No. 273 of 2017 CAT at Dar es Salaam. Having keenly canvassed the above



evidence, I failed to see good reasons for disbelieving the prosecution witnesses. Initially, it baffled my mind whether a person could swallow one hundred forty-two pellets weighing 2099 grams. However, after hearing the evidence, I was left with no doubt that a human stomach is big enough to carry such a consignment.

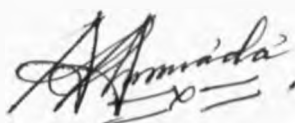
In sum, the foregoing analysis brings me to the conclusion that the said one hundred forty-two (142) pellets (exhibit P3) were emitted by the accused.

Next is the question whether the said 142 pellets (exhibit P3) are narcotic drugs namely, Cocaine Hydrochloride. The relevant evidence on this came from PW2 Ziliwa Peter Machibya, the Government Chemist Report (exhibit P1), and 142 pellets (exhibit P3). It was the evidence of PW2 that on the 4th day of February 2014, he received a sealed packet along with a letter from the Anti-Drugs Unit requesting his office to examine the substance. The said package was delivered by Neema Mwakagenda (PW3) who was in the company of Inspector Makole (PW12). PW2 opened the packet and found 142 pellets. It was further the testimony of PW2 that upon laboratory examination both in the preliminary and confirmatory tests, it was found that all 142 pellets contained Cocaine Hydrochloride. Moreso, Ziliwa Machibya testified that he took three pellets and removed the packages to get the

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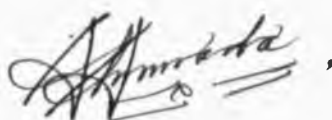
average weight of each pellet and finally found that all 142 pellets weighed 2099 grams. The scientific findings were reduced into a report which was tendered and admitted as exhibit P1. PW2 identified exhibit P3 (142 pellets) as the one he examined and found it to be narcotic drugs namely, Cocaine Hydrochloride. He clarified that the substance was tested twice that is, in the preliminary test and confirmatory test and the findings in both examinations were positive in the sense that all 142 pellets were found to be Cocaine Hydrochloride. I am alive to the position that this Court is not bound by expert opinion. However, there should be good reasons for the Court to depart from expert evidence. Good reasons may be gathered from counter evidence or fundamental imperfections in scientific analysis. See **Hilda Abel vs Republic** 1993 TLR 246. I have painstakingly navigated through the evidence on record but I could not find a reason let alone a good one to depart from the expert findings made by the Government Chemist (PW2). In the event, I hold that the said one hundred forty-two pellets (exhibit P3) retrieved from the accused are narcotic drugs namely, Cocaine Hydrochloride.

The last question to ponder is whether the chain of custody was sufficiently established. The relevant evidence on this came from PW1 Salma Athuman

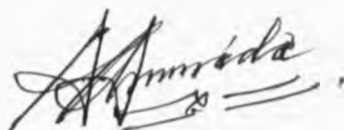
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Mwamende, PW3 Neema Mwakagenda, PW2 Ziliwa Machibya, PW5 Dorick Mipango, PW9 ASP Goliama Rashid Ilomo, PW12 Makole Bulugu and PW11 Amina Mwinyi Shoko.

PW5 Dorick Mipango, PW9 ASP Goliama Rashid Ilomo, and PW12 Makole Bulugu consistently testified that after every defecation, the emitted pellets were counted in the presence of the accused and independent witnesses. Then the particulars of emitted pellets including the time of defecation were filled in the observation forms (exhibit P8). Lastly, the emitted pellets were counted and packed in khaki enveloped which was sealed and signed on by the supervising officers, independent witnesses, and the accused signed. As per the prosecution evidence, the pellets were defecated in fourteen different sessions. At the end of the work shift of the respective supervising officer, the emitted pellets were handed to Neema Mwakagenda (PW3) who is the custodian of the exhibits related to drug cases. According to their evidence, on different dates between 31st January 2014 and 3rd February 2014, PW9 ASP Goliama Rashid Ilomo supervised the defecation of seventy-nine (79) pellets and handed the same to Neema Mwakagenda (PW3) whereas PW12 Makole Bulugu supervised defecation of sixty-two (62) pellets and handed the same to Neema Mwakagenda (PW3) along with PW5 Dorick



Mipango who supervised defecation of one pellet and handed it to PW3. Neema Mwakagenda (PW3) confirmed that she received a total of one hundred-forty two (142) pellets which were packed in fourteen envelopes from PW5, PW9 and PW12. She recorded them in the register (exhibit book) and kept them in the exhibit room at ADU. On 4th February 2014, a day after the the accused had defecated the last pellet, PW3, in the presence of PW11 Amina Mwinyi Shoko, Senior Assistant Commissioner Godfrey Nzowa who was the head of Anti-Drugs Unit (ADU) and the accused at the Anti-Drugs Unit offices at Kurasini took fourteen (14) envelopes from the exhibit room, opened them and counted 142 pellets. She then packed the pellets in their respective fourteen envelopes and placed fourteen envelopes in one big envelope. The said envelope was packed, sealed, and signed by PW3 Neema Mwakagenda, PW11 Amina Mwinyi Shoko, and the accused DW1 Abdulrahman Fuad Rubeya. Thereafter PW3 Neema, in the company of (PW12) Inspector Makole submitted the sealed envelope to the Government Chemist Laboratory where it was received and attended by PW2 Ziliwa Machibya. PW2 received the sealed packet, opened and took samples from all 142 pellets. After testing the substance, PW1 repacked the pellets in their respective fourteen (14) envelopes and placed them in the big envelope.

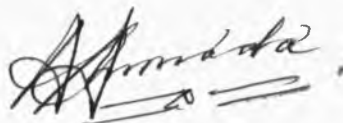
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PW2 then sealed and signed on it. Finally, he handed the package back to PW3 Neema on the very day that is 4th February 2014. Neema returned the exhibit to ADU and continued to keep them in the exhibit room until 31st August 2021 when the same was required in Court in Criminal Sessions Case No. 139 of 2015 which was before Hon. Laltaika J. PW3 brought the exhibit in the morning and handed it to the State Attorney one Sabrina. On the very day in the evening, she was given back the exhibit by the court clerk one Salma Athuman Mwamende (PW1) after the same had been tendered in court. PW1 confirmed to the court that the 142 pellets were on 31st of August, 2023 tendered in evidence and marked exhibit P4 by Ziliwa Machibya who stood as PW1 in Court in Criminal Sessions Case No. 139 of 2015. After tendering, the Court ordered the exhibit (142) pellets to be returned to the custody of Neema (PW3). PW1 counted and packed the exhibit in the envelope which bore the court stamp and her signature. As Criminal Sessions Case No. 139 of 2015 was withdrawn, Neema continued to keep the exhibits until she brought them to court on 6th November 2023. PW1, before tendering exhibit P3 assured the Court that the package was intact as she handed it to Neema (PW3) on 31st August, 2021. Further, PW2 Ziliwa Machibya when testifying, sufficiently identified 142 pellets and their

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packages. He confirmed to the court that they were the ones he examined on 4th February 2014 and found them to be Cocaine Hydrochloride. He identified the package by his office stamp and his signatures. He also identified the pellets by their number (142), their appearance and the way they were packed in general. Indeed, on the above account, it goes without saying that the chain of custody was not broken from the time of defecation to the point of tendering in court. It is now the law that an oral account is sufficient to establish the chain of custody. See the case of **Anania Clavery Betela vs the Republic**, Criminal Appeal No. 355 of 2017, CAT at Dar es Salaam. That said and done, I hold that the chain of custody was sufficiently established.


The accused tendered the statements of Salma Athuma Mwamende (exhibit D1), Ziliwa Machibya (exhibit D2), Neema Mwakagenda (exhibit D3), Makole Bulugu (exhibit D4), and committal record of PI No.04/2014 [Criminal Sessions Case No. 139 of 2015] (exhibit D5) to establish contradictions in the prosecution evidence. His lamentations were that the witnesses testified on details which they did not state in their statement at police. However, having read and assessed them against the prosecution evidence, I could not find the alleged contradictions and if they were, they are so minor in



such a way that they do not go to the root of the case and therefore do not raise reasonable doubts. In the case of **Abdallah Rajabu Waziri vs the Republic**, Criminal Appeal No. 116 of 2004 CAT at Tanga, it was held that where a witness testifies on what he did not state at police, it is necessarily fatal for he may not have been asked on that aspect while recording the statement.

It is the law that doubts must be reasonable to displace the cogent prosecution evidence. On this, I am fortified by the decision of the Court of Appeal in **Vicent Ilomo vs the Republic**, Criminal Appeal No. 337 of 2017, CAT at Iringa in which the Court quoted with approval its holding in **Chandrankant Joshubhai Patel vs Republic**, Criminal Appeal No. 13 of 1998 (unreported) to the following effect;

"As this court said in Magendo Paul and Another v. R[1993] TLR 29 quoting Lord Denning's view in Miller v. Minister of Pensions 1947 2 AH E.R 372, also quoted by the learned trial judge in the instant case, remote possibilities in favour of the accused cannot be allowed to benefit him. If we may add, 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 inference".

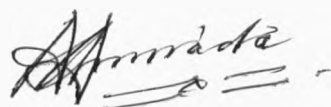


The similar position was restated by the Court of Appeal in the case of **Silvanus Ansigali @ Mbilinyi vs the Republic**, Criminal Appeal No. 15 of 2010, CAT at Mwanza where the Court held as follows;

'It is a principle of law that where doubts arise in a factual situation, the benefit is given to the accused person. The doubts must, however, be reasonable. Courts should not, and cannot, give benefit to a situation where the doubts raised are irrational'.

Having appraised the evidence in whole, I am of the considered opinion that the alleged doubts are too fanciful to detract the prosecution case.

As I wind up, I find it apposite to comment on the defects in the charge. As hinted above, the accused was charged with trafficking in narcotic drugs contrary to section 16(1)(b)(i) of the Drugs and Prevention of Illicit Traffic in Drugs Act [Cap. 95 R.E 2002] as amended by Written Laws (Misc. Amendments) (No. 2) Act No. 6 of 2012. I have carefully read section 16 of the Drugs and Prevention of Illicit Traffic in Drugs Act [Cap. 95 R.E 2002] and section 31 of Written Laws (Misc. Amendments) (No. 2) Act No. 6 of 2012. For sake of clarity, it is desirable to reproduce the relevant provisions; Prior to the amendments in 2012, section 16 read as follows;



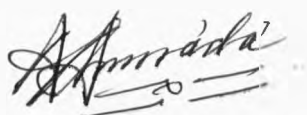
16.-(1) Any person who-

(a) has in possession or does any act or omits to do any act or thing in respect of narcotic drugs or any preparation containing any manufactured drugs commits an offence and upon conviction is liable to a fine of ten million shillings or three times the market value of the narcotic drugs or any preparation containing such manufactured drug or whichever is greater or to an imprisonment for life or to both the fine and imprisonment;

(b) traffics in any narcotic drug or psychotropic substance or any substance represented or held out by him to be a narcotic drug or psychotropic substance commits an offence and upon conviction is liable-

(i) in respect of any narcotic drug or psychotropic substance to a fine of ten million shillings or three times the market value of the narcotic drug or psychotropic substance, whichever is the greater, and in addition to imprisonment for life but shall not in every case be less than twenty years;

(ii) in respect of any other substances, other than a narcotic drug or psychotropic substance which he represents or holds to be narcotic drugs or psychotropic substances to a fine of not less than one million shillings and in addition to imprisonment for life but shall not in every case be less than twenty years.

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Section 31 of Written Laws (Misc. Amendments) (No. 2) Act No. 6 of 2012 provides;

31. The principal Act is amended in section 16 by -

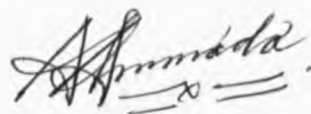
(a) deleting paragraphs "(a)" and "(b)" and substituting for them the following:

"(a) found in possession or does any act or omits to do any act or thing in respect of narcotic drugs or any preparation containing any manufactured drugs commits an offence and upon conviction shall be sentenced to life imprisonment; and

(b) trafficking in any narcotic drug or psychotropic substance commits an offence and upon conviction shall be sentenced to life imprisonment."

(b) deleting subsection (2).

From the above, it is my observations that after the amendments paragraphs (a) and (b) ceased to have roman numbers. As such, in my view, the proper citation in the statement of offence ought to be section 16(1)(b) of the Drugs and Prevention of Illicit Traffic in Drugs Act [Cap. 95 R.E 2002] as amended by Written Laws (Misc. Amendments) (No. 2) Act No. 6 of 2012 without adding (i) as it does no longer exist. Nonetheless, I am of the considered opinion that the error was inconsequential as no prejudice was occasioned to the accused hence it is curable under section 388 of the



Criminal Procedure Act. This is because the accused sufficiently understood the nature of the allegations he was facing and for that reason he was able to make a defence. In taking this position, I am fortified by the decision of the Court of Appeal in **Feston Domician vs the Republic, Criminal Appeal No. 447 of 2016, CAT at Mwanza**. The similar position was echoed in the case of **Lina Roman Muro vs the Republic**, Criminal Appeal No. 550 of 2021, CAT at Dar es Salaam.

All the above considered, it is my unfeigned findings that the prosecution has proved the case beyond reasonable doubt. The doubts raised, if any, are so fanciful. Thus, I find the accused **ABDULRAHMAN FUAD RUBEYA SALIM** guilty and consequently convict him of Trafficking in Narcotic Drugs contrary to section 16(1)(b) of the Drugs and Prevention of Illicit Traffic in Drugs Act [Cap. 95 R.E 2002] as amended by Written Laws (Misc. Amendments) (No. 2) Act No. 6 of 2012.

It is so ordered.

The right to appeal is explained.




A. A. Mbagwa

JUDGE

24/11/2023

SENTENCE

I have heard and taken into account all the mitigation and aggravating factors. However, there is only one mandatory sentence for the offence which the accused has been convicted of, that is life imprisonment. In the circumstances, I hereby sentence the convict **ABDULRAHMAN FUAD RUBEYA SALIM** to life imprisonment pursuant to section 16(1)(b) of the Drugs and Prevention of Illicit Traffic in Drugs Act [Cap. 95 R.E 2002] as amended by Written Laws (Misc. Amendments) (No. 2) Act No. 6 of 2012..

It is so ordered.

The right of appeal is explained.




A. A. Mbagwa

JUDGE

24/11/2023

ORDER

I hereby order one hundred forty-two (142) pellets of Cocaine Hydrochloride (exhibit P3) be destroyed according to law.




A. A. Mbagwa

JUDGE

24/11/2023