

**IN THE HIGH COURT OF TANZANIA  
(TANGA DISTRICT REGISTRY)  
AT TANGA  
CRIMINAL SESSION NO. 43 OF 2022**

**THE REPUBLIC  
VERSUS  
FANIZA ABDALLAH FANIZA**

**RULING**

**K. R. Mteule, J**

**9/10/2023 & 9/10/2023**

This Ruling is an objection raised by Mr. Wantora Advocate for the accused person on the admissibility of PF3 sought to be tendered by PW9 who was the doctor who testified to have treated the victim. The objection is based an argument that the document is not the one listed in the committal proceedings since during the said Committal Proceedings the prosecution listed a PF3 of Abdallah Juma while in the instant document the name is Abdallah Mohamed. According to Mr. Wantora this contravenes section 246 of the Criminal Procedure Act.

On the other hand, Mr. Kusekwa, State Attorney replies that the objection is not a legal objection because the variation in names is a matter of fact which can't be addressed by objection.

In rejoinder, Wantora re-joined that what is objected is based on the prayer of the witness and not the contents of the document.

I have gone through the parties submissions. What I construe from the parties is that the contention centres on the name of the patient treated as per the PF3. Although in rejoinder Wantora departs from his submission in chief while objecting by claiming to be objecting the prayer and not the contents, I do not see how that prayer can be objected. The witness's prayer did not mention the name but the name is part of the contents of PF3.

Whether the said PF3 is of Abdallah Juma or Abdallah Mohamed, this is a matter of fact which needs evidence to be ascertained. Since in the Committal Proceedings the PF3 was mentioned, in my view **section 246 (1) of the Criminal Procedure Act** is complied with. The issue of names will be part of evidential value of the PF3 and cannot be objected at this admission stage. This being the case, the objection is overruled. It is so ordered.



**KATARINA REVOCATI MTEULE**

**JUDGE**

**9/10/2023**

**Court:**

Ruling delivered this 9<sup>th</sup> October 2023 in the presence of all the parties.



**KATARINA REVOCATI MTEULE,**

**JUDGE**

**9/10/2023**

