8IN THE COURT OF APPEAL OF TANZANIA
AT ARUSHA

(CORAM: LILA, J.A., NDIKA, J.A. And MWAMBEGELE, J.A.)

CRIMINAL APPEAL NO. 251 OF 2017

FRANCIS PAUL ..... APPELLANT

VERSUS

THE REPUBLIC ..... RESPONDENT

(Appeal from the decision of the High Court of Tanzania at Arusha)

(Moshi, J.)

Dated the 9th day of June, 2017
In
Criminal Appeal No. 2 of 2017

.....

JUDGMENT OF THE COURT

16th Dec. 2020 & 11th February,2021

LILA, J.A.:

In the Resident Magistrates Court of Arusha at Arusha, the appellant was arraigned for the offence of rape. We shall refer the victim of the offence as "XY" just to hide her identity. The charge was framed as hereunder:

"***STATEMENT OF OFFENCE***

Rape contrary to section 130(1)(2)(e) and 131(1) of the Penal Code,[Cap. 16 R. E. 2002]

PARTICULARS OF THE OFFENCE

FRANCIS s/0 PAUL, on various occasions from the year 2011 to the year 2016 at Kisambare area within Arumeru District and Region of Arusha, did have sexual intercourse with one ***XY,*** *a girl of twelve (12) years old.*

The appellant is recorded to have refuted the accusation, whereupon the prosecution featured eight (8) witnesses and tendered two documentary exhibits. The appellant was the sole defence witness. The substance of their evidence is straight forward. The appellant owned a shop in which he sold an assortment of goods. He also used it as his residence. XY and her parents lived nearby the appellant's house at Kisambare. XY was schooling at Uraki Primary School with Beatrice Malick (PW3) and Elizabeth Samwel (PW4). According to Pilly Omary (PW1), her class teacher and Rose Godson, also her teacher (PW2), she had a record of good attendance. However, on 2/2/2016 she absented herself from school. She resurfaced on 4/2/2016 when she went to school in the company of her father one Frank Akilwa Mbise (PW8) who, having noted some bad behaviour, wanted to know from both her teachers and her friends (school mates) what had caused such behaviour. PW3 and PW4

disclosed to PW8 that XY used to visit the appellant's house and came back with popcorn and money. Explaining what they knew about XY, PW3 said she had never seen XY enter the appellant's house but XY used to tell her that she used to visit the appellant, slept with him while naked and was given popcorn and money. PW4, on her part, said that she once saw "Francis amemfanyia Glory tabia mbaya" through the hole at the window and that habit began since they were in STD II.

XY (PW5) on her part, said the appellant used to call her at his residence since she was in STD II, undressed her and "akanifanyia tabia mbaya kwenye sehemu yangu ya kukojolea". Explaining further she said:-

> *"The accused also put off his clothes, he inserted his "dudu" lake kwenye sehemu yangu ya kukojolea. I felt pain, the accused told me if I would tell any one, he will cut my hand, after he finished he gave me popcorn, sweets and money. The accused used to call me on the way from school and repeated the same things..."*

Upon PW8 being informed of the appellant's bad habit, he went to arrest him and reported the matter to the police. XY was taken to hospital whereat she was medically examined by Joyce Zakeri Raymond (PW6), a

Clinical Doctor, who established that she had no hymen something which suggested that she had been penetrated. She tendered a PF3 as exhibit P1. At the police station, the appellant was interrogated by WP 5793 Jane (PW7) and confessed committing the offence. His cautioned statement was recorded and tendered in court as exhibit P2.

The appellant, as shown above, flatly distanced himself from the accusation. In no uncertain terms, he not only denied raping XY but also attributed his arrest and implication to the offence to his refusal to sell his mother's plot to XY's father (PW8). Following that, he said, PW8 promised to fix him. He, however, conceded not to have cross-examined PW8 on that issue.

The learned trial magistrate was not impressed by the appellant's account of the matter. He found the case proved by the prosecution and proceeded to convict him and handed down a sentence of life imprisonment. In sentencing, for ease reference, this is what the learned trial magistrate stated:-

*"**SENTENCE:***

Having noted that this is statutory rape this court is hereby sentence the accused to serve life imprisonment in jail as per section 131(1) of the Penal Code Cap. 16 R. E. 2002."

Aggrieved by the finding and sentence meted out by the trial District Court, the appellant appealed to the High Court of Tanzania (Arusha Registry). His appeal was dismissed in its entirety. The learned judge concurred with the trial court that the charge was proved as required by law, the cautioned statement was properly admitted as exhibit and that PW4 and XY's evidence coupled with the appellant's confession left no doubt on the prosecution case. In her judgment, the learned judge stated at pages 67 and 68 of the record that:-

"I agree with Ms. Silayo that the charge sheet shows that appellant committed the offence at different dates from 2011-2016. The evidence starts in 2012 which period is within the time span which the appellant used to rape the victim.....

It is my view that ail these pieces of evidence are sufficient proof that the appellant had sexual intercourse with the victim. This is statutory rape,

the girl was aged 12 years, whether the girl consented is immaterial..."

We have quoted the nature of the charged offence, the sentence meted out by the trial court and the reason for sustaining it given by the first appellate court not without a purpose. We shall revert to these disquieting aspects at a later stage of our judgment.

All the same, still aggrieved, the appellant lodged this appeal bringing to the fore five (5) grounds of appeal which were subsequently followed by two sets of written submissions. The grounds of complaint, as paraphrased, are:-

1. That the charge sheet was defective.,

2. That the cautioned statement (exhibit P2) was improperly recorded.,

3. That there was variance between the charge and evidence in respect of the date the offence was committed and no amendment was made.,

4. The first appellate court did not scrutinize the evidence on record., and

5. That the case was not proved beyond reasonable doubt.

The appellant fended for himself before us, adopted the submissions he had filed and opted to say nothing by way of highlighting the same.

In his written submissions, the appellant contended, in respect of ground one of appeal, that according to the charge sheet the sentencing provision (section 131(1) of the Penal Code) provides for the minimum sentence of thirty years but he was sentenced to serve life imprisonment which is the mandatory sentence in terms of section 131(3) of the Penal Code. He contended that he marshaled his defence in accordance with the sentencing provision stated in the charge sheet not for the mandatory life imprisonment. He complained that he was thereby prejudiced and on the authority of the unreported case of **Abdallah Ally vs. Republic**, Criminal Appeal No. 253 of 2013, he was found guilty on a defective charge hence did not receive a fair trial. Arguing in another angle, he contended that since the charge indicated that he committed the offence on various dates, each act constituted a separate offence in terms of sections 132 and 135(2) of the Criminal Procedure Act, Cap. 20 R. E. 2002 (the CPA) and failure to charge him accordingly was fatal. Citing the case of **Isidori**

Patrice vs Republic, Criminal Appeal No. 224 (unreported) he contended that he was unable to know the nature of the charge he was facing.

In respect of ground two (2) of appeal, the appellant submitted that the cautioned statement was not recorded in question and answer form as required under section 57(2)(a) of the CPA and also it was not caused to be read by the appellant and was not allowed to make any alterations as required under section 57(3)(a)(i) of the CPA.

Amplifying on ground three (3) of appeal, the appellant submitted that there was variance of the date the offence was committed in that while the charge alleged from 2011 to 2016, PW5 said the offence was committed starting from 2012. That since the charge was not amended in terms of section 234(1) of the CPA, then in terms of the Court's decision in the case of **Masasi Mathias vs Republic**, Criminal Appeal No. 274 of 2009 (unreported), the charge was not proved.

The appellant, in ground four (4) of appeal, faulted the learned judge for not doubting the credibility of XY (PW5) on account of her failure to name the appellant at the earliest possible opportunity as being her ravisher. The delay in naming him, the appellant insisted, in terms of the

Court's decision in the case of **Juma Shaaban @ Juma vs Republic**, Criminal Appeal No. 108 of 2004 (unreported), rendered her evidence incredible and the prosecution case suspect.

Upon a thorough perusal of the submissions, we noted that apart from merely stating the legal position that the prosecution is duty bound to prove the charge beyond reasonable doubt as was stated in the case of **Mohamed Said Matula vs Republic**, [1995] TLR 3, no elaboration of ground five (5) of appeal was made by the appellant.

Ms. Alice Mtenga, learned State Attorney, represented the respondent Republic. She strongly resisted the appeal. She argued the grounds of appeal seriatim.

Addressing on the issue of the charge being defective, she argued that since the victim was aged twelve (12) years, then section 131(1) of the Penal Code cited as the sentencing section was proper wherein the sentence stipulated ranges from thirty years to life imprisonment and the appellant was properly sentenced to life imprisonment. She, however, conceded that under that section the minimum sentence is thirty years imprisonment and the trial magistrate was thereby required to sentence

the appellant to serve thirty years imprisonment instead of life imprisonment.

When the Court drew to her attention to the particulars of the offence which is to the effect that the offence was committed on diverse dates from the year 2011 to 2016 and the age of the victim in the charge is indicated to be 12 years, she changed her position and conceded that it was not clear whether the age indicated was of which particular year, for, if it was meant to be for the years between 2011 and 2014, then the victim was under the age of ten years and the sentencing provision ought to have been 131(3) of the Penal Code. On that account, she conceded that the charging provisions were defective and the particulars of the offence were also deficient. The consequences of that, she contended, are that the appellant was prejudiced. She was therefore ready for the appeal to be allowed.

In respect of ground two (2) of appeal, Ms. Mtenga conceded that exhibit P2 was not recorded in the form of question and answer but it was properly recorded and admitted in evidence without objection. She, further, argued that the cautioned statement was recorded in terms of section 57 and 58 of the CPA and there was full compliance.

Ms. Mtenga, in ground three (3) of appeal, conceded that there was variance between prosecution witnesses' evidence of the year the offence started to be committed and the charge because PW4 said 2012 as opposed to the 2011 indicated in the charge. She also conceded that no amendment was done to the charge.

Failure by XY to name the appellant at the earliest opportunity as her ravisher as complained in ground four (4) of appeal did not find purchase in Ms. Mtenga's minds. She contended that there is clear and ample evidence on record that the appellant threatened XY not to tell anybody of the rape incidences lest he would chop off her hand. More so, she argued, there is also enough evidence that the appellant used to lure her by giving her popcorn, sweets and money. For these reasons, she contended, XY cannot be blamed for not reporting the matter and naming the appellant as her ravisher much earlier.

Lastly, Ms. Mtenga was not hesitant to state that the above explained anomalies notwithstanding, the charge was proved against the appellant beyond all reasonable doubt. She contended that there is direct evidence from the victim detailing how she was being raped by the appellant and that she felt pains when being penetrated, evidence by PW4 which

corroborated what XY told the trial court, the Doctor's Report (PF3 - exhibit P1) which indicated that she found XY's virginity perforated and the appellant's own confession to the offence as exhibited in his cautioned statement (exhibit P2). Considering all this evidence, Ms. Mtenga, again, turned around and resisted the appeal.

The appellant had nothing in rejoinder. He simply sought the indulgence of the Court on his grounds of appeal and the written submissions supporting the same and allow his appeal.

Even before we dwell to consider the merits or otherwise of this appeal, we think we should state that we are not surprised by the change of position of the learned State Attorney. Admittedly, this appeal has somehow taxed our minds. For this reason, we propose to consider other grounds of appeal first and finally deal with grounds one (1) and three (3) of appeal which touch on the issue whether the charge was defective and whether there was variance between the charge and evidence.

We start with ground two (2) of appeal. The complaint is that the cautioned statement was not taken in accordance with the law. To be particular; it was not recorded in the form of question and answer and it

was not caused to be read by the appellant so as to allow him to make alterations, if any. We think, this issue need not take much of our time for this Court had an occasion to deal with a similar situation in the case of **Festo Mwanyangila vs Republic**, Criminal Appeal No. 255 of 2012 (unreported). In that case, one of the appellant's grounds of complaint was that "the Hon. trial judge greatly erred in law by convicting the appellant basing on an improper cautioned statement that offends the provisions of section 57 and section 58 of the Criminal Procedure Act, Cap. 20 R.E 2002. Mr. Rwezaula, learned advocate for the appellant, believing that cautioned statements are exclusively taken and made under section 58 of the Criminal Procedure Act, Cap. 20 R.E. 2002 (the CPA), submitted that the appellant's cautioned statement (EXH P5) was irregularly taken in the form of questions and answer instead of an unsolicited statement by the appellant himself. He thus urged the Court to discount the evidence in EXH P5. The imports of the two provisions were exhaustively discussed by the Court where it was stated that:-

> *"Relying on the decision of this Court in* ***YUSTA KATOMA V. R;*** *Criminal Appeal No. 242 of 2006 (unreported), Mr. Mwandaiama correctly submitted that statements made by suspects either under*

section 57 or under section 58 of the CPA are recognized to be cautioned statements. What differentiates such statements is the mode in which they are taken or made, he said. Those taken under section 57 may be a result either of answers given by suspects to questions asked by the police investigating officers or partly answers to questions asked and partly volunteered by suspects, he stressed. He further pointed out that those taken under section 58 are wholly volunteered and unsolicited statements by suspects. He thus contended that the appellant's cautioned statement (EXH P5) was properly taken under section 57 of the CPA in the form of questions and answers. With respect, we are in full agreement with Mr. Mwandalama and, for that reason, we dismiss the first ground of appeal for being misconceived."

We gather from the above excerpt that the accused statements whether taken under sections 57 or 58 of the CPA are both cautioned statements. That, a statement taken under section 57 of the CPA should be in question and answer form while that taken under section 58 has to be taken in a narrative form. All the same, as indicated above the appellant's statement was recorded in terms of sections 57 and 58 of the CPA. The

irregularity is therefore not fatal. That said, the fact that the appellant's statement in the present case was not taken in the question and answer form is therefore inconsequential and did not prejudice the appellant. Further, our careful examination of exhibit P2 shows that time of starting to record is indicated to be 0940HRS (page 27) and time completed is indicated to be 1030HRS (page 29) and the appellant signed it signifying acceptance that the contents thereof were true. We therefore see no reason to fault the admission of the cautioned statement as exhibit and acting on it to convict the appellant. This ground of appeal fails.

The credibility of XY came up as a complaint in ground four (4) of appeal. Her credibility is being doubted for failure to name the appellant as her ravisher at the earliest possible opportunity. It is trite law that credibility of a witness in any judicial proceedings be it criminal or civil has always been recognized as the monopoly of the trial court which is better placed to observe the witness's demeanour at the witness box [see **Siza Patrice vs Republic**, Criminal Appeal No. 19 of 2010 (unreported)]. Otherwise, there are two other ways of determining the credibility of a witness as were stated by the Court in the case of **Shabani Daudi vs Republic**, Criminal Appeal No. 28 of 2000 (unreported) that:-

"The credibility of a witness can also be determined in two other ways: one, when assessing the coherence of the testimony of that witness. Two, when the testimony of that witness is considered in relation with the evidence of other witnesses, including that of the accused person. In these two other occasions the credibility of a witness can be determined even by a second appellate court when examining the findings of the first appellate court."

It can therefore, with certainty, be said that the above provides for the manner a witness's credibility may be determined. Failure to name the appellant at the earliest opportunity as the ravisher is not one of them. However, that is a relevant factor to be considered where the issue of identification arises. That was pronounced by the Court in the case of **Swalehe Kalonga @ Sale v. Republic,** CA Criminal Appeal No. 16 of 2001 (unreported). It was held that a delay by a witness to name at the earliest opportunity the person he knows to have committed an offence casts doubt that the witness had identified the offender. The same stance was taken in **Marwa Wangiti Mwita and Another v. The Republic** [2002]TLR 39 where it was stated at page 43 as follows: -

"The ability of a witness to name a suspect's name at the earliest opportunity is an all-important assurance of his reliability, in the same way as unexplained delay or complete failure to do so should put a prudent court to inquiry."

Identification of the appellant was not at issue in the present case. This ground of appeal is therefore unfounded.

A follow-up question may be whether XY can be blamed for not naming the appellant as his ravisher at the earliest opportunity. We think not. As rightly argued by the learned State Attorney there is ample evidence that the appellant threatened XY not to tell anybody of what was happening lest she would be cut with a knife and even went further to lure her by giving her popcorn, sweets and money. Being a child, she cannot be blamed for not reporting the matter and the appellant as her ravisher much earlier. This ground of appeal, too, fails.

We now turn to consider grounds one (1) and three (3) of appeal which touch on the issue whether the charge was defective and whether there was variance between the charge and evidence. We shall then determine the consequences thereof. We intend to consider them jointly because they are linked to one another.

It is plain that the appellant was charged with the offence of rape. The charge, recited above, suggests that he continuously committed the offence since 2011 to 2016. It was not a single act. According to the evidence on record, the matter went public upon PW8, on 4/2/2016, visiting the school to inquire on the cause of unacceptable behaviour exhibited by XY. It was then when PW3 and PW4 came out clearly that XY had a habit of visiting the appellant's shop and later went to school with popcorn, sweets and money. XY, when asked, confirmed that story. None of the three witnesses (XY, PW3 or PW4) was able to tell the exact date(s) when rape was committed. Even PW4 who said she peeped through a hole on the window and saw the appellant raping XY, could not tell the exact date when that happened. All that XY and PW3 told the trial court was that the habit started since when XY was in STD II. PW4, on her part, said it started since 2012. Be that as it may, the evidence on record, read as whole, reveals that PW3 and PW4 were very young to remember with certainty the dates of the occurrences. Otherwise, PW4's statement may be taken to be a mere slip of the tongue. By the time XY gave evidence on 5/4/2016, she was 12 years old and was in STD VII. It goes without saying that XY was in STD II in the year 2011 and was seven (7) years old. She

was therefore a girl under ten years between 2011 and 2013. A charge that could be preferred against the appellant then should have been rape contrary to sections 130(2)(e) and 131(3) of the Penal Code and in the event of a conviction he would be liable to be sentenced to serve a mandatory sentence of life imprisonment. As between 2014 and 2016 when XY was above ten years of age but below eighteen years, a proper charge would be rape contrary to section 130(2)(e) and 131(1) of the Penal Code.

It is noteworthy that the charge sheet shows that XY had sexual intercourse with the appellant **on various occasions from the year 2011 and 2016.** The same was repeated by XY, PW3 and PW4 during their testimonies. That, definitely, means the appellant raped XY several times and at various times. The number is not told. That being the case, in terms of the provisions of section 133(1) and (2) of the CPA, the appellant committed a series of rape from 2011 to 2016. Each incident constituted a separate offence and ought to have been charged as a separate count. [see **Mayala Njigailele vs Republic**, Criminal Appeal No. 490 of 2015 (unreported)].

Alive of the above legal position, we are grateful to Ms. Mtenga for her concession that the statement of offence is deficient for not reflecting and covering the offences of rape committed in both periods; the period when XY was under ten years and the period after but below eighteen years. Instead, the sentencing provision cited cover the period when XY was twelve years old. Alive to and cognizant of our decision in **Jamali Ally @ Salum vs Republic,** Criminal Appeal No. 52 of 2017 (unreported), that deficiency could be cured by the particulars of the offence or evidence on record. Unfortunately though, the particulars of the offence still made reference to the period between 2011 and 2016 as the period when the offence was being committed and are specific that the victim was twelve years old. So, save for indication of the period 2011 and 2016, the rest of the particulars of the offence were in line with the statement of offence. We are alive to the legal requirement stipulated under section 132 of the CPA that the charge should disclose the essential elements of the offence so as to enable the accused to know the nature of the offence he is going to face and hence martial his defence accordingly. That requirement was underscored in the case of **Isidory Patrice vs Republic**,(supra) which was rightly cited by the appellant. In that case the Court stated:-

"It is mandatory statutory requirement that every charge in a subordinate court shall contain not only a statement of the specific offence with which the accused is charged but such ***particulars as may be necessary for giving reasonable information as to the nature of the offence charg****ed. It is now the law that the particulars of the charge shall* ***disclose the essential elements or ingredients of the offence****. This requirement hinges on the basic rules of criminal law and evidence to the effect that the prosecution has to prove that the accused committed the* ***actus reus*** *of the offence with the necessary* ***mens rea****. Accordingly, the particulars in order to to give the accused a fair trial in enabling him to prepare his defence, must allege the essential facts of the offence and any intent specifically required by law."*(Emphasis added)

Closely examined, in the present case, what therefore comes out clearly from the statement of the offence and the particulars of the offence is that the appellant was facing a charge of raping a girl of the age of twelve years. Even, on 5/4/2016, when XY gave her testimony she was explicitly clear that she was twelve (12) years old. The issue of age was

proved by PW8, her father, who made it clear that XY was born on 6/2/2004. That said, we are convinced that the deficiencies in the charge were not fatal and did not prejudice the appellant. Even without amending the charge, the statement and the particulars of the offence as well as the evidence on record made it clear to the appellant that he was facing a charge of rape against a twelve (12) year old girl, XY. These were necessary and sufficient information to the appellant to fully understand the nature and seriousness of the offence of rape he was facing hence enabled him prepare a proper defence. We have taken that course upon seeking inspiration from the position we earlier on took in the case of **Jirani Maarufu vs Republic**, Criminal Appeal No. 193 of 2011 (unreported). In that case the appellant was accused of raping a STD VII school girl aged fifteen (15) years in which it was alleged that he ***had sexual intercourse with her several times and as a result of those sexual contacts the girl became pregnant and stopped attending school.*** A thorough reading of the Court's decision suggests that it did not consider any other period the appellant had sexual intercourse with the girl except that indicated in the charge sheet, that is when the victim was fifteen (15) years old, and concluded that the appellant had committed a

statutory rape to a girl aged fifteen (15) years. By analogy, therefore, we are prepared to conclude that the deficiencies in the instant case are curable under section 388(1) of the CPA and we accordingly find no merit in the appellant's complaint in respect of the charge being defective and variance of the charge and evidence. We accordingly dismiss those grounds of grievance.

Was the charge proved against the appellant is the last issue we shall consider. Much as the appellant did not elaborate on that complaint and we outrightly dismissed it, we find ourselves compelled to consider, albeit in brief, the substance of the prosecution evidence on which the appellant's conviction was grounded. After a serious examination of the evidence on record, we entirely agree with the learned State Attorney that the victim's (XY) detailed account proved sexual penetration beyond reasonable doubt. She was clear that the appellant used to undress her, then undressed himself and inserted his male organ into her female organ and that she felt pain. That evidence was materially corroborated by PW3 and PW4 who led evidence that XY used to visit the appellant's house and the later had once seen the appellant carnally knowing XY through a hole on the door. More so, the medical report (exhibit P1) which revealed that XY's hymen had

been perforated was a clear indication that there was penetration. Penetration, however slight, which is an essential element in proving rape in terms of section 130(4) of the Penal Code was sufficiently established. XY's credibility was not doubted by both courts below and we see no reason to find otherwise. The true evidence of rape has to come from the victim (see the case of **Selemani Makumba v. Republic** [2006] TLR 379). It is evident that XY knew the appellant well before and this was not controverted by the appellant by way of cross-examination or during his defence evidence. She pointed at the appellant as her ravisher. The appellant's flat denial was inconsistent with the strong prosecution evidence which, with no flicker of doubt, pointed at him as the ravisher. His denial is highly improbable. We are therefore, like the learned State Attorney, in agreement with the concurrent findings of both courts below that there was cogent evidence by the prosecution which sufficiently established the offence of statutory rape to have been committed by the appellant. His conviction was proper.

We lastly turn to consider the propriety of the sentence meted out by the trial court and sustained by the first appellate court. The appellant was

sentenced to serve a life imprisonment term. Initially, the learned State Attorney was in full support of that sentence arguing that section 131(1) of the Penal Code provides the sentence to a convicted person to be life imprisonment and not less than thirty years imprisonment. However, when we engaged her whether life imprisonment is the mandatory sentence and whether in the spirit inherent under section 170(1) and (2)(a) of the CPA the learned magistrate could pass a sentence exceeding the minimum sentence without forwarding the record to the High Court for confirmation, she conceded that the proper sentence that could legally be imposed by the learned trial magistrate was the minimum prescribed by the law which is thirty years imprisonment.

The law as it is (section 131(1) of the Penal Code), is that a person who commits rape is liable to be punished with imprisonment for life as a maximum sentence, and in any other case for imprisonment of not less than thirty years. The trial magistrate was therefore free to impose a sentence of thirty years imprisonment. In the event he found any aggravating circumstances he could sentence up to life imprisonment but subject to confirmation by a judge, [see **Selemani Makumba vs Republic** (supra)]. That said and with respect, we agree with the learned

State Attorney that the sentence of life imprisonment imposed by the trial court and sustained by the first appellate court did not accord with the law. We accordingly allow this ground of complaint and hereby quash and set aside the life imprisonment sentence and substitute for it a sentence of thirty (30) years imprisonment.

To summarize and for the foregoing reasons, the appeal against conviction is dismissed but the appeal against sentence is allowed to the extent stated above.

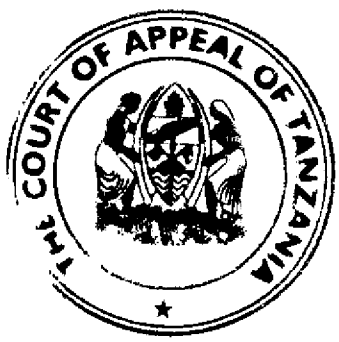
DATED at **DAR ES SALAAM** this 4th day of February, 2021

S. A. LILA
JUSTICE OF APPEAL

G. A. M. NDIKA
JUSTICE OF APPEAL

J. C. M. MWAMBEGELE
JUSTICE OF APPEAL

The judgment delivered on this 11th day February, 2021, in the presence of appellant in person - linked via video conference at Arusha Central Prison and Ms. Mary Lucas, State Attorney for the respondent, is hereby certified as a true copy of the original.



B. A. MPEPO
DEPUTY REGISTRAR
COURT OF APPEAL