

IN THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

AT ARUSHA

APPLICATION NO. 028 OF 2016.....

C/F COURT OF APPEAL OF TANZANIA AT BUKOBA
IN CRIMINAL APPEAL NO. 383/2015 DATED THE 19.02.2016
BETWEEN

SHIJA JUMAAPPLICANT

AND

THE UNITED REPUBLIC OF TANZANIA }
ATTORNEYGENERAL }RESPONDENT

EXECUTIVE SUMMARY OF THE APPLICATION

[MADE UNDER RULE 19 OF THE COURT RULES FROM PROVISION NO.17 OF
THE COURT PRACTICE DIRECTIONS]

I, the applicant submit this summary as follows:-

1. **THAT**, the application is attached with a copy of the court of appeal judgment and a copy of the record of the court of appeal which has judgments of the trial court (district court) and the first appellate court (High court) within all proceedings.
2. **THAT**, I, have observed that the court of appeal judgment has errors patent in the face of record resulted to miscarriage of justice which needs to be solved.
3. **THAT**, the court of appeal had upheld the conviction from the both lower courts without considering that the trial court was hustled to convict and sentence me before my defence. Thus my right to be heard was prejudiced by the court while it didn't take any accord that the trial court didn't make any effort to trace me in the court after he absconded bail.
4. **THAT**, the based evidence by the prosecution side from PW1 narration had only hearsay from the victim. Thus it should not be the sequence of events provided a clear and concise account of what had transpired and can not corroborate the absent evidence from the victim.
5. **THAT**, the trial court had conducted voire dire test for the victim and observed that she was not known the nature of oath and not possessed with sufficient intelligence to justify the reception of her evidence. Thus the court discharged her to testify.

6. **THAT**, as the trial court had not recorded in the proceeding (record) the voiredire by the way of question and answer as cited by the law, thus the voiredire was null. Further more, the discharge was denied the applicant to cross examine this key witness as a special claimer.
7. **THAT**, on other side, the appeal in the High court was defective as the notice of appeal was filed out of prescribed period by the law. The trial judgment had been delivered on the 29.06.2012 and the notice was handed on the 03.07.2012 to the court whereby stamped and signed the 17.07.2012. As the appeal was defective thus the proceedings and judgments of the High court and Appeal court were null.
8. **THAT**, I humbly beg this court to restore justice where it was overlooked and quash both conviction and sentence imposed upon him and set me at liberty.
9. **THAT**, the court may grant any other order(s) or relief(s) sought that may deem fit in the circumstance of the complaint.

This executive summary has been prepared by I, the applicant here at Butimba central Prison at Mwanza and signed by my self this ^{28TH} day of ^{APRIL} 2016.

(RTP) _____

APPLICANT

CERTIFICATION: - I hereby certify that this executive summary has been prepared by the applicant himself and endorsed before me this ^{28TH} day of ^{APRIL} 2016

(SGID) _____

FOR; O/c BUTIMBA C. PRISON
 MWANZA (T)

Lodged at Arusha in the Registry of the court thisday of2016.

(SGD) _____

REGISTRAR OF THE COURT
 (ACHPR)