

TANZANIA / JUDGMENT

19710617 TZCA Dar es Salaam

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17 June 1971

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IN THE HIGH COURT OF TANZANIA AT DAR ES SALAAM. High Court Criminal Appeal No. 282 of 1970 Original Criminal Case No. 140 of 1969 of the District Court of Singida District at Singida before J. A. L. T. A. O. Esquire, District Magistrate versus THE REPUBLIC RESPONDENT Charge: Count 1. Soliciting a bribe contrary to section 3 (1) and (5) (e) of the Prevention of Corruption Ordinance. Count 2 Corrupt transaction with agents and contrary to section 5 (1) and (5)

- (a) of the Prevention of Corruption Count 5. Ordinance, Cap. 400 of the Laws. But acquitted on Count 2. JUDGMENT MADE BY ME J. The appellant, who was a primary court magistrate at the Singida Urban Primary Court, was charged on one count of soliciting a bribe and two counts of corrupt transaction. He was acquitted on the count of receiving a bribe of Shs. 20/- because the trial magistrate was not satisfied that the charge was proved, and convicted on the other two counts, one of soliciting a bribe and another one of corruptly receiving Shs. 180/-. The evidence against the appellant was overwhelming and the trial District Magistrate could not but convict. There was evidence which the trial magistrate accepted that P.W. 2 appeared before the appellant on a charge of stealing cattle. The appellant refused to release him on bail notwithstanding the offer of P.W. 1 to stand surety for P.W. 2, to whom P.W. 1 was related. Later at a pombe shop the appellant approached P.W. 1 and asked him if he was still keen on having P.W. 2 released on bail. On
- p. w. 1. 'saying we was, the appellant told him in Mkororo mtupu haurambwa' (literally "An empty hand cannot be lifted") and the conversation led to P.W. 1 later giving the appellant first Shs. 20/- (which the trial magistrate did not believe) and then Shs. 200/-, so that P.W. 2 might be released on bail and also not be sentenced to three years and twenty four strokes. According to P.W. 1 he gave Shs 200/- to the appellant after he had reported to the police, and when the appellant took the Shs. 200/- he gave back to P.W. 1 Shs. 20/- because he said he took into account the Shs. 20/- P.W. 1 had earlier given to him. The appellant received the money on a path near his court and two police officers arrested him shortly afterwards. A civilian, Shabani Tora, was present when the appellant was searched and found with Shs. ~ 180/-. The appellant denied receiving money from P.W. 1 and contended that the first time he saw the money it was in a police officer's hands at the police station, after the police advanced on him when he was on his way to a private doctor. The trial magistrate considered the evidence and came to the conclusion that he could safely rely on the prosecution witnesses as being straightforward. I cannot say he was

wrong. In his long 28 page petition the appellant merely challenged the trial magistrate's findings of fact and alleged that most of the prosecution witnesses had grudges against him. I am not impressed by the grounds, which do not raise any matters of real substance. After perusing the record I am satisfied, and so certify, that this appeal has been lodged without any sufficient ground of complaint, and it is accordingly summarily rejected. Apparently due to an oversight the trial magistrate made no order regarding the Shs. 180/-. I order that the money be returned to P. VL.1, Muna Jikilo. (Sgd.) L. M. MAKAME. Dar es Salaam. 17th June, 1971.

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Prepared on 23 October 2026 · Esheria