

TANZANIA / JUDGMENT

19771216 TZHC Mwanza

COURT
TZHCDECIDED
16 December 1977

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!f(c :tL.LL,,I'E JURISDIC'IIOI, ,iIGI: CClfr':I c:d"tINJ,L ;;PPEd, l;O 193 C? 1977 (Original Cri-nind C:,s!' Le. 685 of 1976 cf t:::-e J;ist.cict Court of '~wanza J3EFO.hE ,,_ :- 'm'.11,Bi.ZI, ES.,. D. r. ==:::~==:-:=====· "'···: :

- •• 0 1~PPELL1iNT versus 'THE REPUBLIC ... ,. • , e " RE. SPOND.EN"!1 '11:F'i:LILli, J • : This appdl '-g~.ir.st convictions in the tnre.-, counts has no -narit and dotild with ~dv~nta~s n_ve been su~tbriJ.y r~J~ctedo In t11.e District Court :::t 1~wa.r1za t11.e ::::;~;clL,,t w2s charged with four counts n .. -n:::ly: u.tiering a f'E1lse docu-n:::nt, . . t-ts'l1pting to obtain goods by f0lae p~etences 7 ~jstroying avict~nce 0Li ~ssault causing actual bodily hc1r11. Be ,vos fcu.nc.. guilty on the first tnree counts and convicted but acquitted en tn" L,st count involving :oss:~ult. I think that the trial 11agistr&te ;.-ncr.gl;y uc,~juitted hi11 on ttiic.; ·Qcunt •• However, upon conviction-, he wc:rn s<:ritenc,'d on the first count tc- six 11onths i11prisonnent in the second cobint 1:" vF,D s:::ntenced to thr2s 3,,;c;rs i11prisonnent and in the third count tc six 11ontils iilprisomlent" 'Ih 11_gistrcte rightly ordered the first two coW'li.-s to run concurrstly but consecutively to the sentence in the third count. The_c5se 3gainst t1E appELnt was straight fcrw:::rd. Liter paying Shs. 60/60 for one b2.g cf c1.licku, f:::2d tc ,~ S:,,'l'3f' Clerk libdul Selenan (Viv 3) at th: Nc.tionaJ ,rilling Corpor~tioL, t.r1::: appEL.r1t wc:s given a receipt No. 8315~cccrring to procedure 1 t~~ appell~nt was to present this receipt to a clerk at the store where: he ~culd be given the bag of chicken fe~d og=inst itn But when the ~p~cll3nt pr~sented himself to a Sales Clerk Lepnid~s (FW I) he prdcuc~d t~is sa7e receipt but it then read Shs. 960/60 fer 16 bags of chic's:::~n f,;<:s1. 1,s the writing of this recaipt app0~re6 to h2ve been altered, L~cnidas ~sk~d the appellant to clecr it witn tne clerk who issued it 2nd ~~~n lat0r Leonidas insisted to take the c,ppslL.Lt t"c: the clerk conc"rr1,:3. 1 i.n-, appcllsnt snatched the receipt fron hi,i .=inc:. put it in his 'llouth c,Dd r-roce:d,2d to chew it .. Leonidas struGgl~d witn tie appellant to r:::trieve thG riceipt in the courae of whicn LL' tr,"'s bitt':!n, . -dth the .t1:lp of otner people who an~wered the distress c,:::11 1 tr1e :c,ppslL,nt was subdu:::J did pieces of the torn receipt recov~r~ci frc".1 nis outh. These w-rc: r:roduced at the trial as exhibits alcn 6 witn tr~E copies which prov',,, ccnolusively thc.1t the original receipt No. 8215 ,1hich was prestr.te:3. to .Leonidas had be2n altered 11akinL it~ false docu11ent~ The appellant denied tnese ~llegbtions L1.~ offered oxplan~tions which were sc irrc,tional tn:::,t tn-y could only b,., L,lse.. In any event, his own brother, Felicii.in Tobii:Js ,~mo testified as::: dd,~1.c,, witness said that he had sent

the „ppellant_ to buy only one bc.g i:..D,' tiLt for this purpose,-he had given hi 11 Shs. 65/-c
On the whole-, I ::...n s.,tisfied -that the evidence given by the pros, 6ution w-itnsses once
acct,pt d -::ls it was, conclusively 0 proved the offe-nces ch&rged in all the tr1rGe ccunts for
which the app_e1lant was convicte~. The sentences which were i~pcs~d io not lecve any
rob~ for intervction by this cor,rt. In the ~esult I dii~iss this appeal. Delivsr~d in Court ;,t
'~wanza this 16th ::!<," c1 Dec,cnber., 1977.. ~vil~NZL lp'l'; _l)? C; '!:Ir, F J ,: 77 rm J:rnr
L. „li . nun: ~renn

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