

TANZANIA / JUDGMENT

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, IL 44 LAJW.L L_Lj'1tj.J 4W4 L.tU.J ' . ! • . . . t ORIGINJL CRIMINAL C-.SE N005.98 OF 1975 OF TH
DISTRICT COURT QF iRUSHA DISTRICT AT ARUSHA.

- _ Before N.I.N Munuo, Esq0, - -- Senior Rcsierit Magistrate ... , nrd K. varcst - - - APPELLANT
S :••. ••. : • • OrigIa1 Acusd).. (v(rsus. : ••-••. . " c THE REPUBLIC -----
RESPONDENT

(Otiginal Prosecutor) :- •. •H- ' JUDGMNT. ' . • 3 onathaz, •J..- BEBN€RD EVAREST and
another were convicted jointly on charges of stealLng by public servnt, forgery, .uttering a fals
document an1 obtaining by fals.pretences. They were e3ch scntcnod to a s'usthnUve sentence of
5 years' imprisanrnt. ThLr othLr accused has not appealed but --iBERNAREihhas edlerL ,bi,th
&,be convictions and setenc'e. The two accused att the r.levant time ucre emrloyces of the epartm
nt of Water Development working in the office of , the Regional Water Engineer, Arusha. The
appellant was designat.d clrical off iteh assigned mainly to the ordering of spare parts f.or the
machin.ry of that department. Givin3 rise to th chargs was a local purchasing order (L.P.O) with
serial numhr 576347. This was taken out by P.W 4 SINGH a mechanical insptor in that office for
purchasing 2011tres of errgine oi. Thé4umrtft!fter it was duly completed y one J1-NES NYANGE (P
W 3) a cleric of that office was handed to SINGHO SINGH in his evidence sic1 he in turn handed
the LOP.O to a driver of tha ofic called LEWI SETH to take it. to Agip for the oil. That was on Otohr
6, 1975. On October9however, he got informationHttht the oil had not been fl s:uppliedby AGIP
reportedly becuse that compay sold eagine oil only in -Iruins. ?or reason which are not cler
howevLr this drivr was not called. He viould have said what apperie tq the unused L.P.O. It
however Seems th - t p.W S MTUI who was th store there who re-gularlr prepared L.P.O'S
subeqUently saw that LL.P.O. on his table. Se woUld 1h6wever not be bothcred about it nn,3
llft .it thee Ultimately, he said he found it thissing. JJME\$ on October 9 issued a requisition ord'er
for 20 litres of oil apparently after the report that Agip had failed to supply them with Such oil.
This they obtained from Government Stores, Arusha. On October 12, the same L.P,O was present
d to Aip. significatitly, however, it had been alt rel by the nun'eral 11 4" to precele th figure 11 20"
so as to read 420 litres. P.W ip WAZIRI OH.Rr of Agip duly issued such amount of oil in tWb drums
c to the .lriver of a vehicle of water Department who was accompanied - by-ian officer of that
department. These he identifiLd as the apellntsIcd-accued and p.W 11 SIMON SYLVANGkwhy

Was. driviodt :T the vehicle .n which the urns were püt. Tn due cousegip sent the de rbneit invic
taD th. .s f shs.2003/40. Th .li1.was, however :not handeI over to it; ccordi to SIMON the two dms.:
isal were off-loaled at a place called/Range, apparently a private garage. Tha vital evidence in
connecting the appellant with the charges :-ia:that of 'P.W•t1 SyVANGA.: He skid thatdn October
15 he was driving GT8303 of. the office of the District Water Engineer. He was instructed by the
apia11t to accompany the co-accused to Agip to collect/2

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CASE PAGE	https://chat.esheria.ai/case-law/tanzania/bernard-evarest-v-the-republic-theftbypublicservant-tzhc-2003

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