

TANZANIA / JUDGMENT

Selina Kokutona Ruling

COURT
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11 February 2025

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA JUDICIARY BUKOBA SUB REGISTRY AT BUKOBA ORIGINAL JURISDICTION CRIMINAL SESSION CASE NO. 2280 OF 2025 THE REPUBLIC VERSUS SELINA KOKUTONA @ CROSPERY & ANOTHER ACCUSED RULING OF THE COURT. Date of order and Ruling on 11.2.2025 BEFORE G.P.MALATA,J This case came for Preliminary hearing on 11/02/2025. Both parties appeared in Court. The Republic appeared represented by Ms. Agness Awino and Mr. Alfred Tairo learned State Attorneys where as the two accused persons appeared represented by Mr. Gerase Reuben learned counsel. Ms. Agnes Awino learned State Attorney stood and informed this Court that they have observed fatal defects in the committal proceedings. She stated that defect that, one, non compliance of Section 246 (2) of the Criminal Procedure Act, Cap. 20 R.E 2022 by failure to read over and explain all the witness statement and documentary exhibits to the accused, and two, the 2nd accused has conflict of interest with 1st accused as she named the 1st accused to have grudges with the father of the deceased. 1 Ms. Agness Awino learned State Attorney ended praying to the Court for adjournment with an order of recomittal by the committing Court. She also opined that, in that circumstance of conflict of interest accused person defended by different lawyers. Mr. Gerase Reuben learned counsel raised no objection to the prayer in respect of the observed defects. He finally prayed that, the recommittal be order and executed within the shortest period. Having received the concerns from both counsels of the parties to this case, this Court, took time to read the committal proceeding in particular pages 7, 8 and 9 and noted that, the raised defects exist on the record. It is evident that, the defects are fatal and cannot be cured without an order of recommittal as suggested. In the event, this Court is inclined to agree to both counsels' submissions. Consequently, this Court hereby orders that;

1. Prayer for adjournment of hearing of case is granted.
2. Committal proceedings by Bukoba District Court is hereby nulified for want of compliance with mandatory provision of Section 246 (2) of the CPA, hence it accordingly expunged from Court record.
3. Bukoba District Court is ordered to conduct recommittal in fully compliance with Section 246 (2) of the CPA by reading over and explaining to the 2 accused all statements of the witness and documentary exhibits by the Republic.

4. This Court's order be fully complied with by Bukoba District Court within 14 days from the date of this order.
5. Accused shall be represented by different advocates.
6. Preliminary hearing to be held on 28/02/2025 at 9:00 am IT IS SO ORDERED. DATED at BUKOBA this 11th February, 2025. G.P. MALATA JUDGE 11/02/2025 RULING delivered at BUKOBA this 11th February, 2025 G.P. MALATA JUDGE 11/02/2025 3

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