

TANZANIA / JUDGMENT

19870521 TZHC Tabora

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TZHCDECIDED
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AT TABORA ECOHOHIG CHIMES JURISDICTION (Tabora itegistry) ECONOMIC CRIMES CASE NO, 7 OF 1986 THE .REPUBLIC versus · ISSA MOHAMillD CHARGE: Corrupt transaction contrary to paragraph 2 of the 1st Schedule to, and sections 56(1) and 59(2) of the Economic and Organized Crime Control Act No, 13 of 1984 as read together with section 3(2) of the Prevention of Corruption Act No.16 of 1971, ·. JUDGr.1DJ'r OP THE COU rIT CHIPETA; J, The accused person in this case, Issa Mohamed, stands charged with the offence of corrupt transaction c/s Paragraph 2 of the First Schedule to and sections 56(1) and 59(2) of the Economic and Organized Crime Control Act, 1984 · . The Republic has alleged that on 29/5/86, the accused corruptly gave to one Sgt~ airigson cash Shs. 600/=• The accused denied the cha:ge\ The prosecution 1 s evidence from a single witness is that on 29/5/86, at about 1.40 p.m. Sgt. Hingson (P.W.1) was on his way to go and arrest an accused person for the offence of assault. Near the Girls' Hostel in Kigoma in the vicinity of the Kigoma Post Office, he saw some :five people with loads, and th,e accused, whom P. w.1 knew before, had no load. On asking them about the loads, the accused told P. W. l that they were his propert21 a;ld thl.t he was taking them to l3urundi for sale. When asked by P. W. l if he had a permit, he said .he had non:e. So P. \J.l arrested· him and ·ordered that the loads be taken to Police Station. In the loads P. W. l ~aw g.roundnuts and be.ms. The acct1Sed -3Ild his coolies refused to go to the police station, and just then, two other police officers and two militia men oame to the scene, and the accused and his cooJ.ie.s were ordered to take the loads to police st:i.tion.

- •• 2 .. 2 ... As they started for the police station, the accused plead0d with ' . P. W. l not fo take him to tLe police station~ Be then took out of his pocket Shs.200/= and offered it to P.11.l. P.W.l, however, refused to take the money. Shortly afterwards, while P, W. l and the accused were walking abreast each other, the. accused pushed a wad of notes into P. W-.1' s trousers, and when P.1~,i took out the money, he counted it and f ouhd it to be Shs. 600 /:.... Then and the re P. d. 1 re-arrested the accused for corruptly giving the mo110y to : · P.H. 1. The accused was tL3.1 ta.ken to Police Station where he was charged accordingly, In his defence on oath, the accused said th.lt he had bought the beans and grotmdnu ts at the market and that he was taking them to Mwamgongo village for sale. He then gave the loads to coolies. On their way to tl10 port, they were stopped by P. W. l who asked the accused aabout the loads. The accused told P.W.l that he was taking tho loads to r1wa.mgongo village. When asked if he had a permit, the accused said that he did not have a p-o.rmi t. Wh-eeoupc,n P.

W. I said he would take the loads to Police Station, So the loads were taken to police station. On arrival at the Police Station, P. VJ. I took out Shs, 600/= and said that the accused had given him that money corruptly, an accusation which the accused denied. The accused called no witness on his own behalf. It is trite law that in the absence of any law to the contrary, a fact can be proved by the evidence of a single witness, provided that such evidence is wholly worthy of credit. In the present case I am keenly aware that the evidence against the accused is that of a single witness. We have very carefully considered the evidence of P. W. I and that of the accused. With regard to the evidence of P. W. I, we note that he has given a very detailed account of the events leading up to the accused's arrest. Indeed, the accused's own evidence largely supports that of P.W.I. We have also closely watched P. W. I's demeanour as he gave his evidence and also appreciated the consistency of his evidence. We have found no

- 3 - contradiction, no exaggeration, and no malice in the entire evidence of this witness. As opposed to the evidence of P. W. I, we have found the accused to be an evasive, self-contradicting witness who could not even account for the money which he had on that day. Even his attempt to accuse P.W.I of acting on a previous grudge was half-hearted and clearly hollow. In short, we are satisfied that the accused's story is a complete fabrication, and that his story was an attempt to side-step the truth. On a full consideration of the entire evidence, therefore, we are satisfied that P. W. I was a truthful witness. We accordingly find as a fact that after the accused was arrested by P. W. I in connection with the loads, the accused gave P.W.I Shs.600/= so that P. W. I should forgo taking the accused to the Police Station; and we are satisfied that the accused's story is a ridiculous concoction which we reject accordingly. Since P. W. I was acting in a matter in relation to his principal's affairs, the giving of the money by the accused to P.W.I was an offence as stated in the charge. In sum, we are satisfied that the prosecution has proved its case against the accused beyond reasonable doubt. We accordingly, unanimously find the accused, Issac, Mohamed, guilty, is charged and we duly convict him forthwith. I, J. Iddi Mrisho 1st Lay Member Sgd., Selebeya Bund. 1st, 2nd Lay Member, Judgment delivered in open Court at Kigoma this 21st day of May, 1987. J. B. D. CHI PET A, PRESIDING JUDGE Record: (Mr. du tenge). fey- Lord, accused his no previous record. Mitigation: I am a first offender. I have no previous small child who is with me. I pray for leniency. B. D. CHIPETA 1 PRESIDING JUDGE. 21/5/87 Allocutus: I finished class four. I have one wife and one child, I am 33 years. B. D. CRIPZT A, PRESIDING JUDGE 21/5/87 SILENCE OF THE COURT! In assessing sentence, we have taken into consideration the fact that the accused is a first offender, that he has a family to support and that it is a plea; he has been in custody for a long time. Right of Appeal explained. B. D. CHIPET, 1st JUDGE. KIGOMA 21/5/87 . 21/5/87.

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