

TANZANIA / JUDGMENT

dominick mayega vs manyara regional police commander 6 others 2022 tzhc 14870 29 november 2022

COURT
TZHCDECIDED
29 November 2022

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA IN THE SUB-REGISTRY OF
MANYARA AT BABATI MISC. CRIMINAL APPLICATION NO. 1 OF 2022 DOMINICK
MAYEGA..... APPLICANT VERSUS MANYARA REGIONAL
POLICE COMMANDER.....1ST RESPONDENT MANYARA REGIONAL CRIME OFFICER
OF POLICE..... 2ND RESPONDENT KITETO POLICE OFFICER COMMANDING
DISTRICT..... 3RD RESPONDENT KITETO DISTRICT POLICE OFFICER COMMANDING
CRIMINAL INVESTIGATION DEPARTMENT 4TH RESPONDENT OFFICER
COMMANDING STATION KIBAYA POLICE 5TH RESPONDENT THE DIRECTOR OF
PUBLIC PROSECUTION..... 6TH RESPONDENT INSPECTOR GENERAL OF POLICE OF
TANZANIA.....7TH RESPONDENT

RULING

29th & 29th November, 2022 Kahyoza, J.: Dominick Mayega applied under sections 390 and 391 of the Criminal Procedure Act, [Cap. 20 R.E. 2022] (the CPA) and rules 2 and 7 of the Criminal Procedure (Habeas Corpus) Rules, G.N. Notice No. 150 of 1930 to this Court to order his immediate release from unlawful custody of Kiteto District Police Officer Commanding Criminal Investigation 1 Department and Officer Commanding Station Kibaya Police. A brief background is that; the police arrested Dominick Mayega, the applicant, a econdary school teacher, on 21st November, 2022. They held him in custody without granting him bail. Efforts by the applicant's advocate to have him bailed, proved futile as the police responded that investigation was under way. The police also denied the applicant's advocate and relative to meet him. Suspicious that, the police had no intention to charge or admit him to bail, the applicant instituted the application for habeas corpus seeking this Court to order the respondents to appear and show cause why they have unlawfully kept him under unlawful custody; to order the Director of Public Prosecutions to deal with him in accordance with the law; to order Kiteto District Police Officer Commanding Criminal Investigation Department and Officer Commanding Station Kibaya Police pay him compensation for loss suffered; and any other relief(s) as the Court would deem fit. The respondents were served with the order to release the applicant or appear and show cause why

they should not release him. On the day fixed for appearing, Ms. Blandina learned State Attorney appeared for the Director of Public Prosecutions and notified the Court that, the application has 2 been overtaken by event as the applicant had been arraigned before Kiteto district court indicted with the offence of murder. She submitted that, the applicant was arrested for the offence of murder and that section 148 (5) (a)

- (i) of the Criminal Procedure Act, bars the police or the court to grant bail to a person charged with the offence of murder. She produced a copy of the charge sheet and prayed the application to be dismissed. The applicant's advocate concurred with Ms. Blandina state Attorney that, the applicant had been arraigned before Kiteto charged with the offence of murder. He conceded that, the law does not allow a person charged with the offence of murder to be admitted on bail. He objected to the prayer the application to be dismissed for being overtaken by events. He prayed the Court to mark the application acted upon as one of the prayers in the application was to order the Director of Public Prosecutions to deal with the applicant in accordance with the law. Indisputably, the application has been overtaken by events, as the Director of Public Prosecutions has dealt with the applicant in accordance with the law, by charging him. There is nothing left for this court to determine. I accordingly, mark that the application to have been overtaken by events as the Director of Public Prosecutions has dealt with the applicant in accordance with the law. 3 I so order. Dated this 29th day of November, 2022. Court: Ruling delivered in the presence of the applicant's advocate and Ms. Blandina, State Attorney for respondents. J.R. Kahyoza JUDGE 29/11/2022 4

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CASE PAGE <https://chat.esheria.ai/case-law/tanzania/dominick-mayega-v-manyara-regional-police-commander-habeascorpus-tzhc-2022>

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