

TANZANIA / JUDGMENT

ASHURA judgment

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA CORRUPTION AND ECONOMIC CRIMES DIVISION MUSOMA SUB-REGISTRY ECONOMIC CASE NO. 9716 OF 2024 THE REPUBLIC VERSUS ASHURA BERNARD KAOGA

JUDGMENT

8th November & 6th December, 2024 KISANYA, J.: Ashura Bernard Kaoga stands accused in this Court of trafficking narcotic drugs, contrary to section 15 (1) (a) and (3) (iii) of the Drug Control and Enforcement Act [Cap. 95 R.E. 2019] (“the Drugs Act) as amended by section 18 of the Written Laws (Miscellaneous Amendments) (No. 5) Act, 2021, read together with paragraph 23 of the First Schedule to, and sections 57 (1) and 60 (2) of the Economic and Organised Crime Control Act [Cap. 200 R.E. 2022] (“the EOCCA”). The prosecution asserts that on the 2nd day of October, 2023, at Nkerege Village within Tarime District in Mara Region, the accused person was found trafficking in narcotic drugs namely cannabis sativa weighing 1 321.10 kilograms. She entered a plea of not guilty and forcefully disputed the facts establishing the alleged offence when they were read to her during the preliminary hearing. To support its case, the prosecution represented by Ms. Angela Chacha and Mr. Mafuru Moses, learned Senior State Attorneys and Mr. Davis Katesigwa, learned State Attorney presented five witnesses. These witnesses are Gabriel Jacob Gabriel (PW2), Emmanuel Ambilikile (PW2), Stanley Julius Mwakihaba (PW3), Lilian Boniface Mato (PW4), and Insp. Beatus Tuyanywe (PW5). Their testimonies were supported by a total of eight exhibits, namely: Government Chemist Analyst Report (Exhibit P1), Forensic Laboratory Submission Form (Exhibit P2), Certificate of Seizure (Exhibit P3), Inventory of Exhibits for Disposal (Exhibit P4), Certificate of Destruction (Exhibit P5), fourteen empty sulphate bags (Exhibit P6), Certificate of Photograph (Exhibit P7), four still pictures (Exhibit P8) and Cautioned Statement of the accused (Exhibit P9). On her behalf, the accused called three witnesses, including herself, but did not tender any exhibit. She was legally represented by Mr. Juma David Mwita, learned Advocate. 2 The prosecution's key evidence reveals that, in the early hours of 2nd October 2023, at around 04:00 AM, ASP Kanyumbu led a team of officers of the Drugs Control and Enforcement Authority (DCEA), including CPL Emmanuel Ambilikile (PW2), to Nkerege Village following a tip-off about individuals suspected of trafficking cannabis sativa and residing at a guesthouse in the area. Upon arrival at 'Kwa Matete,' a local guesthouse in that village, ASP Kanyumbu approached the receptionist or attendant, introduced himself, explained their mission, and obtained consent to conduct a search. PW2 was assigned to search a room where he

encountered the accused person, Ashura Bernard Kaoga. After introducing himself and his colleague, Jesca Magea, PW2 informed the accused of the suspicions and questioned her involvement in drug trafficking. According to PW2, the accused admitted to being involved and revealed that the narcotic drugs were hidden near the guesthouse. PW2 then instructed her to lead them to the location. They walked approximately four kilometers to a bushy area. Unable to locate an independent witness due to the villagers fleeing the scene, PW2 asked Jesca Magea to serve as the witness for the search. 3 It is PW2's evidence that, during the search, he discovered and seized 14 sulfate bags containing dried leaves suspected to be cannabis sativa. He labeled each bag with a case number DCEA/MARA/IR/04/2023 and marked them from D1 to D14. Thereafter, he completed the certificate of seizure (Exhibit P3), which was then signed by PW2, the witness, and the accused, who also provided her thumbprint. Due to logistical challenges and heavy rain, PW2 contacted the National Prosecution Service and the Chief Government Chemist's office for assistance. A chemist named Gabriel J. Gabriel (PW1) was dispatched to the scene from the Government Chemist Laboratory Agency (GCLA) in Mwanza. Upon his arrival, PW2 handed over the 14 sulphate bags to him. The handing over was recorded in the forensic laboratory submission form (Exhibit P2), which also served as PW2's request for analysis of the sulphate bag contents. PW1 registered the exhibits under Laboratory Number LZ23-00631, weighed the leaves in the 14 sulfate bags (totaling 321.10 kilograms), and collected samples from each bag. He conducted an on-site preliminary test using Duquenois reagent on the samples, which turned violet, indicating the presence of cannabis sativa. Thereafter, he labelled the bags with the 4 laboratory number and returned them to PW2, while retaining envelopes with samples for confirmatory test. Later that evening, PW1 witnessed the destruction of the exhibits by burning. The next day, he conducted confirmatory analysis on the samples using Gas Chromatography - Flame ionization detector. His analysis confirmed that all samples contained tetrahydrocannabinol (THC), a chemical specific to cannabis sativa. His findings were recorded in a Government Chemist Analyst report (Exhibit P1), which was approved and signed by his supervisor on 5th October 2023. Stanley Julius Mwakihaba (PW3), a Senior Resident Magistrate from Tarime District Court testified that on 2nd October 2023, he was approached by Mr. Lusako Mwaiseke, learned State Attorney, who requested him to witness and order the destruction of narcotic drugs due to storage and transport issues. Later that evening, PW3 traveled to Nkerege Village to inspect the exhibits and issue an order. At the scene, he was introduced to several individuals, including Lusako Mwaiseke (State Attorney), Dotto (Environmental Officer), CPL Emmanuel (PW2) from DCEA, Gabriel (PW1), and a suspect named Ashura Benard Kaoga. It was his evidence that, the State Attorney and PW2 presented him with 14 bags of cannabis labeled with 5 case number DCEA/MARA/IR/04/2023 and marked from D1 to D14. He reviewed the bags along with Form No. DCEA 006 for the destruction order. PW3 stated that the accused admitted possession of the sulphate bags and consented to being photographed. He went on to adduce that, after confirming the contents of the bags, he issued an order for their destruction. This order was recorded on the inventory of exhibits for disposal (Exhibit P4), signed by both the accused and PW3. In compliance with the order, the exhibits were destroyed by burning, a process carried out under the guidance and instructions of Dotto Munga, an Environmental Officer. At the same time, photographs and videos were taken by PW4 and a certificate of

destruction (Exhibit P5) was signed by all stakeholders present. Subsequently, PW2 stored the empty sulphate bags in his locker for safekeeping. They remained in his custody until he presented them in court, where they were admitted as Exhibit P6. PW3 and PW4 also signed a certificate of photograph, which was subsequently introduced and admitted as Exhibit P7. The next day, on 3rd October 2023, PW4 presented printed photographs to PW3's office. After comparing them with the digital images, PW3 certified 6 their authenticity and signed the back of each photograph. These photographs were then presented and admitted into evidence as Exhibit P8. PW2 recounted that after the destruction of the narcotic drugs on 2nd October 2023, the accused was taken to Tarime Police Station. While at the station, she was interrogated under caution by PW5. The prosecution claims that the accused confessed to the crime in her cautioned statement (Exhibit P9). The court, having examined the evidence, was persuaded that a prima facie case existed, thereby deciding that the accused had a case to answer. In response, the accused chose to present her defence under oath and called three additional witnesses to support her case. These witnesses are Damary Daniel (DW2), Thomas Mtatiro Mwita (DW3) and Jenipher Petro Siprian (DW4). The accused (DW1) consistently denied the charges against her, though she admitted to being arrested at Kwa Matete guesthouse. Her defence, supported by DW2, DW3, and DW4, suggested that she worked as a bartender at Kwa Burule bar cum guesthouse, near Kwa Matete guesthouse and had gone there to meet DW3, with whom she had agreed to spend the night. All defence witnesses testified that, in the early morning, police 7 knocked on the door, identified themselves to the guesthouse attendant one Mama Geto, and proceeded to search the rooms. DW1 and DW3 stated that nothing was found in their room, but the police then took them outside, placed them in a vehicle, and transported them to a remote area. There, they saw several bundles of bags arranged in groups, with additional bags being brought to the location from other areas. The defence witnesses further claimed that each suspect, including the accused, was removed from the vehicle and assigned a group of sulphate bags that they did not recognize. DW2, who worked at Kwa Matete's guest house, added that she was not implicated in the drug trafficking charges because she was known by the village chairman. As for the cautioned statement (Exhibit P9), the accused alleged that she was physically assaulted during the interrogation. Having considered the evidence presented by the prosecution and the defence, the core issue before the Court for determination is whether the prosecution has managed to prove the case against the accused person beyond reasonable doubt. In order to prove the offence of trafficking in narcotic drugs under section 15(1)(a) and (3)(iii) of the Drugs Act, the prosecution must establish 8 that the accused was involved in the trafficking of narcotic drugs, namely cannabis or khat, and that the amount trafficked exceeds one hundred (100) kilogram. As per section 2 of the Drugs Act, trafficking can involve a wide range of activities, such as the importation, exportation, purchase, sale, provision, supply, storage, possession, production, manufacturing, transport, delivery, or distribution of narcotic drugs or psychotropic substances. Therefore, from the charges levelled against the accused, the prosecution was tasked with presenting evidence substantiating the accused person's role in trafficking 321.10 kilograms of cannabis sativa, whether through importation, exportation, purchase, sale, provision, supply, storage, possession, production, manufacturing, transport, delivery, or distribution. It is undisputed that the cannabis sativa in question was found in the bush and not in the actual

possession of the accused. The prosecution, relying on the evidence of PW2 and cautioned statement (Exhibit P9), claims that it was the accused who led the officers to the bush, where a search was conducted, resulting in the recovery of 14 sulphate bags of dry leaves, later confirmed to be cannabis sativa. In contrast, the accused denied being found with the alleged sulphate bags, asserting that the bags were located at the place where the police had taken them, and some bags were brought there by cars. She also denied leading the police to the bush where the bags were found, maintaining throughout the trial that she was a bartender at Kwa Burule's bar, and that she was in the room with a man named Thomas (DW3), not a guest or customer, as claimed by PW2. Thus, for a fair and just determination of the 'trafficking' element in the offence charged against the accused, it is crucial to assess whether the accused rented a room at the guesthouse (Kwa Matete), admitted to involvement with narcotic drugs, and guided the officers to the bush where PW2 found her with 14 sulphate bags containing substances later confirmed to be narcotic drugs, as contended by the prosecution. Starting with the first point, whether the accused had rented a room, PW2's testimony suggests that, based on their intelligence, the accused had rented a room at a guesthouse owned by Matete, with the intention of engaging in drug-related activities. However, apart from PW2's testimony that the accused was a customer and not a bartender to a nearby bar who went there to meet DW3 as asserted by the defence, there is no other supporting evidence. Moreover, the prosecution did not bring Jesca Magesa, the officer who PW2 claimed assisted in the arrest, search and seizure, to testify. As if that was not enough, the guest house attendant, who guided them to the 10 room that was allegedly rented by the accused, was not presented as a witness. It is my considered view that the fact that the accused was arrested alone at the local guest house did not absolve the prosecution from gathering additional evidence about the accused. They could have investigated details such as where she came from, the day she arrived at the guest house, who she arrived with, what she brought with her, and how much she paid for the room. This evidence could have clarified whether the accused truly rented a room at Kwa Matete's guest house, and not a bartender at a nearby bar owned by Burure, as claimed by the defence. All of these issues could have been clarified if the prosecution had summoned a guest house attendant who handled the rooms, to testify. It is well established in law, as outlined in Section 143 of the Evidence Act [Cap. 6, R.E. 2022] that no specific number of witnesses is required to prove a case. However, neglecting to call essential witnesses, without a satisfactory explanation, can weaken the case of the defaulting party, as the court is empowered to draw an adverse inference against them. In the present matter, the prosecution not only failed to call the guest house attendant who guided them to the room but also neglected to present 11 Damary Daniel Magige, a listed witness from the same guesthouse. No justifiable reason was given for this failure. As a result, Damary was called in and testified for the defence. Her evidence indicated that the accused was a bartender to a nearest bar known as Kwa Burule and that she was only found at Kwa Matete guest house when she went to sleep with Thomas (DW3). This evidence was not contradicted as such by the prosecution. For instance, she was not questioned or her credibility was not challenged based on her previous statement, if any. In the circumstances, I find no justification to discredit her account. At this juncture, I conclude that the prosecution failed to prove that the accused had rented a room at the guesthouse in question. The next point concerns whether the accused admitted involvement in narcotic drug trafficking and led PW2 to

the bush where the drugs were allegedly hidden. The prosecution relied on an oral confession in which the accused is said to have admitted to PW2 and his colleague her involvement in drug trafficking, revealed that she had hidden the drugs near the guesthouse, and then consented to lead them to the location, which was a bush. However, PW2's account does not confirm that the accused was warned about her right to remain silent and that her statement could be used as evidence against her, as stipulated under section 48(2)(a)(iii) of the Drugs Act. This omission to caution the accused, who was already a suspect, prior to obtaining the alleged oral confession, undermines the credibility and weight of the oral confession alleged to have been made before PW2. I draw support from the decision in *Boniface Mathew Malyango @ Shetani Hana Huruma & Another vs Republic*, Criminal Appeal No. 358 of 2018 [2020] TZCA 314 (18 June 2020), where the Court of Appeal dealt with an oral confession under similar circumstances and held that: "Failure by the police to warn the first appellant who they suspected prior to his making an oral confession took much weight away from this evidence." Taking into account the above principle, I find the alleged oral confession before PW2 unreliable. The prosecution's failure to summon crucial witnesses, such as the guesthouse attendant who led PW2 to the accused's room or DW2, who was listed as a prosecution witness and present at the scene, further strengthens this finding. DW2, in fact, provided evidence supporting the defence, and her testimony was left uncontroverted, as mentioned earlier. Aside from the oral confession, the prosecution placed reliance on the cautioned statement (Exhibit P9), allegedly authored by the accused and 13 taken down by PW5. Conversely, the accused denied making a confession. She stated that PW5 merely asked for her personal details and alleged that she was tortured to confess. Under the settled law, the Court is not required to consider the accused person's claims of torture or repudiation, as no objection was raised to the admission of the cautioned statement in question. It is, however, appropriate to recount PW5's testimony regarding what he recorded from the accused, as follows: "I began recording her personal history. After the personal history, the suspect informed me that she was in Nkerege Village and that she had been arrested on suspicion of trafficking in narcotic drug. She admitted to being arrested for this offence. After providing her account or statement, I gave her the recorded statement to read and verify whether it was accurately recorded. She read it, confirmed its accuracy, and signed it as verification or certification." (Emphasize is added). From this testimony, it is clear that the accused admitted to her arrest on suspicion of drug trafficking. Since there is no reference to a confession of guilt for the alleged offence, the accused cannot be inferred that she failed to cross-examine PW2 on that issue. Moreover, her defence, which asserts that she neither confessed to the crime nor guided the police to the bush as indicated in Exhibit P9, cannot be dismissed lightly. 14 Even if the Court was to consider that the accused led PW2 to the bush area, the question arises whether all 14 sulphate bags of suspected narcotic drugs retrieved from that location belonged to the accused. According to PW2's testimony, the search conducted at the location resulted in the discovery of the sulphate bags. However, this evidence is uncorroborated by the alleged independent witness to the search, Jesica Khoreth Magesa, who was not called to testify. Moreover, PW2's evidence shows that Jesica Magesa was part of the arresting team. This implies that she had a vested interest in the case alongside PW2 and cannot be regarded as an impartial witness, as envisaged under section 48(2)(d)(i) of the Drugs Act. In the case of *The Director of Public Prosecutions vs. Mussa Hatibu*

Sembe, Criminal Appeal No. 130 of 2021 [2022] TZCA 238 (TanzLII), the Court of Appeal stressed that: “Therefore, because there is a requirement for a witness to sign Form No DCEA 003, which is part of the DCEA, it is imperative that in the case of search and seizure of an article from a suspect, witnesses should attend and sign the Form.” This case emphasizes that, as a matter of prudence, witnesses in such situations should, as a general rule, be independent. A police officer cannot qualify as an independent witness unless under exceptional circumstances, 15 such as when an independent witness cannot be procured. The court outlined these exceptional circumstances, such as when an arrest and seizure take place in a location without residential houses, where no other individuals could act as independent witnesses. In our case, the search was conducted in Nkerege village, meaning there were other villagers present. The excuse given by PW2, claiming that all the villagers fled upon the arrival of the police and that his efforts to find independent witnesses were unsuccessful, is not credible due to the following

reasons:

One, at no point did PW2 provide any evidence or explanation to this Court regarding whether he made any effort to involve local village or hamlet leaders, such as the ten-cell leader, the chairman, or the executive officer. These individuals, by virtue of their official positions, would have been expected to cooperate with the police. It is highly improbable that they would have fled upon the arrival of the police, as claimed by PW2. Two, when DW2 was cross-examined by the prosecution regarding the reasons for her arrest, she stated that the village chairman knew her. She further testified that she had informed the village chairman that the accused was new to the area. This evidence suggests that the village chairman was 16 readily available, directly contradicting PW2's claim that all the villagers fled upon the arrival of the police. As such, DW2's testimony undermines PW2's account and raises doubts about the accuracy of his statements regarding the absence of independent witnesses. Three, it is undisputed that PW2 arrived at the guest house early in the morning, around 4:00 AM. Given this timing, it is highly unlikely that the villagers would have seen the police vehicles and fled, as claimed by PW2. The early hour and the circumstances of the operation make it implausible that the villagers would have reacted in such a manner without a clear reason or provocation, for which no evidence has been presented. Four, if the accused informed PW2 that the narcotic drugs had been hidden near the guesthouse, it would have been expected that the guesthouse attendant, who led PW2 to the accused's room, or even DW2, would have been used as a witness during the search. However, there is no indication that the guesthouse attendant fled or had any reason to be excluded from the search. The lack of a credible explanation for not involving the guesthouse attendant or DW2 as independent witnesses raises further concerns about the legitimacy of the search and the subsequent seizure of the alleged narcotic drugs. 17 Considering the above, it is my firm conclusion that the prosecution has failed to prove, beyond a reasonable doubt, that the accused trafficked the narcotic drugs contained in the 14 sulphate bags. In addition to the points discussed, the issue of the narcotic drugs' disposition is also relevant. At the outset, section 36(1) of the Drugs Act permits the disposal narcotic drugs, due to considerations such as vulnerability to theft, substitution, inadequate storage space, or other reasonable factors. The procedures for disposal

of such narcotic drugs are set out under section 36(2),(3) and (4) of the Drugs Act which stipulates: "(2) Where any narcotic drug or psychotropic substance has been seized the officer seizing such drug or psychotropic substances or precursor chemicals or substances used in the process of manufacturing of drugs or other substances proved to have drug related effects shall prepare an inventory of such narcotic drug or psychotropic substance containing such details relating to-

- (a) their description, quantity, mode of packing, marks, numbers;
 - (b) such other identifying particulars of the narcotic drugs or psychotropic substances or precursor chemicals or substances used in the process of manufacturing of drugs or other substances proved to have drug related effects;
 - (c) packing in which they are packed;
 - (d) country of origin; and 18
 - (e) other particulars as such officer may consider relevant to the identity of the narcotic drugs or psychotropic substances in any proceedings under this Act.
- (3) An officer seizing such narcotic drug, psychotropic substance, precursor chemicals or other substances proved to have drug related effects shall make an application to any magistrate having jurisdiction under this Act, for the purpose of-
- (a) certifying the correctness of the inventory so prepared;
 - (b) taking, in the presence of such magistrate, photographs of such drugs or substances and certifying such photographs as true; or
 - (c) allowing to draw representative samples of such drugs or substances, in the presence of such Magistrate and certifying the correctness of any list of sample so drawn, Provided that, where it is not practicable to secure the presence of the magistrate, the requirement of subsection (3)(b) and (c) shall be dispensed with.
- (4) Where an application is made under subsection (3), the Magistrate shall as soon as practicable allow the application." In the present case, the inventory with details of the narcotic drugs was dully filled out by the seizing officer (PW2) and certified by the magistrate (PW3) under section 36(2) and (3)(a) of the Drugs Act, respectively. However, it is depicted from the evidence of the chemist (PW1), PW2 and PW3 that the application for disposal of exhibits was made at a time when the 19 narcotic drugs had already been weighed. Yet, it was not specified whether the narcotic drugs in question were also weighed in the presence of the magistrate. Since his role under section 36(3)(a) of the Drugs Act was to certify the correctness of the inventory, it is unclear how the magistrate certified that the cannabis sativa sought to be disposed weighed 320.96 kilograms as shown in the inventory of exhibit for disposal (Exhibit P4). Furthermore, since PW1 testified that the samples taken from the sulphate bags were not weighed, the accuracy or basis of the 320.96 kilograms of cannabis sativa reflected in Exhibit P4, as certified by PW3, is left in doubt or unknown. In

the case of Haji Rashidi Matundu Another vs Republic (Criminal Appeal No 314 of 2021) 2024 TZCA 210 (20 March 2024) (2), the Court of Appeal observed that the provisions of section 36 of the Drugs Act have been encapsulated by paragraph 25 of the Police General Orders No.

229. The Court of Appeal further cited its earlier decision in Buluka Leken Ole Ndidai and Another vs. Republic, Criminal Appeal No. 459 of 2020

[2024] TZCA 116 [21 February 2024], which underlined that involving suspects during the process of securing a disposal order for perishable exhibits is essential. The established legal principle is that an accused must be afforded the right to be heard concerning the application for disposal of exhibits. To ensure this right is upheld, the accused person's comments or response must be properly recorded in the inventory or the related proceedings. This position was also clarified in Buluka Leken Ole Ndidai (supra) where detailed procedures for handling applications related to the disposal of perishable exhibits were outlined, as follows: "...it will be sufficient for a magistrate before whom an order to dispose a perishable Government trophy or trophies, to make such order, provided that; one, the prayer to issue the order to dispose of perishable exhibits may be made by the investigator or the prosecution informally before a magistrate in chambers; two, if the order is likely to be relied upon in any future court proceedings against any suspect, that suspect must be present at the time of making the prayer and; three, the suspect must be asked as to his comments, remarks or objections as regards the perishable exhibits sought to be destroyed. Four, if that suspect does not make any comments, remarks or objections, the magistrate shall record the fact that, the suspect was invited to make any comments, remarks or objections, but he opted to make none. Five, if the suspect makes any comments, remarks or objections, they shall be recorded as appropriate either on the reverse side of the Inventory Form or on any separate piece of paper or papers and shall be signed by the magistrate. 21 In my considered opinion, the procedures outlined above are equally applicable to applications for the disposal of narcotic drugs made before the magistrate under section 36(3)(a) of the Drugs Act. While it is not contested in this case that the accused was present during the application for disposal, there is no evidence showing that she was invited to comment or respond on the matter of the disposal. Such evidence is notably absent from the testimony of PW2, though he completed the inventory form and was referred by the magistrate as the person who, along with the State Attorney, presented the narcotic drug to him. PW2 also failed to provide any details regarding the accused person's right to comment or object to the application for disposal. As for the magistrate (PW3), to whom the application was made, he testified as follows: "After Lusako made the application, I asked the suspect her name, and she said it was Ashura Benard Kaoga. When I asked if she had been caught with those exhibits, she confirmed that she had and also agreed to have her photo taken. After that, I allowed the bags to be opened before the destruction process. The officer confirmed that the contents were cannabis leaves, and all 14 bags were opened. Photos were taken before and during the destruction process. As the officer completed his task, the photos were taken again by Lilian. The photographer showed me both still images and videos on the

camera. After the destruction process was completed, I filled out the Certificate of Destruction to confirm that the exhibits had been destroyed”. 22 As can be glanced from the evidence above, PW3 asked the accused to confirm whether she was found with the exhibit and to consent to having her picture taken. In my firm view, this did not amount to giving the accused an opportunity to raise any objections to the application for disposal of the exhibits. Also, the question posed to her by the magistrate was limited to a confession regarding the crime, which was not his (magistrate) role at that moment. Given that the disposal of the narcotic drugs was intended to replace the drugs as evidence in the trial, in line with section 36(5) of the Drugs Act, the accused should have been afforded the opportunity to respond or comment to the application for disposal before the order was granted or made. This was not done. Even assuming that her comment, referenced in PW3's testimony, pertained to the ownership of the narcotic drugs, it is noteworthy that this comment is not recorded in the inventory for disposal (Exhibit P4) nor any separate piece of paper such as proceedings, thus failing to adhere to the prescribed procedure as stated in *Buluka Leken Ole Ndidai* (supra). From the foregoing analysis, it is evident that the narcotic drugs were not disposed of in accordance with the law, thus rendering the inventory of disposed narcotics unreliable for consideration. 23 In light of the totality of the evidence, I find that the prosecution has not met the required standard of proof to establish beyond a reasonable doubt that the accused trafficked in 321.10 kilograms of cannabis sativa. Consequently, the accused, Ashura Bernard Kaoga, is held not guilty and acquitted of the charge of trafficking in narcotic drugs. She should be released from custody unless held for any other lawful cause. DATED this 6th day of December, 2024.

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