

TANZANIA / JUDGMENT

haruna mabala vs republic

2022 tzhc 10379 29 june 2022

COURT
TZHCDECIDED
29 June 2022

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA (SUMBAWANGA DISTRICT
REGISTRY) AT SUMBAWANGA DC. CRIMINAL APPEAL NO. 85 OF 2021 HARUNA S/O
MABALA APPELLANT VERSUS THE REPUBLIC.....
RESPONDENT (Appeal from the decision of the District Court of Mpanda at Mpanda) (R. R.
Kasele, SRM) Dated 27th day of July 2012 In Criminal Case No. 193 of 2012

JUDGMENT

29 & 29/06/2022 NKWABI, J.: The appellant appeared to have pleaded guilty for rape contrary to section 130 (1) and (2)(e) and section 131 (1) of the Penal Code Cap 16 R.E, 2002. The District Court entered a plea of guilty after the appellant had answered the charge, "Zt is true." It seems, the facts of the case were read over to the appellant but the record is silent if he was asked to reply to the same as to whether the facts were correct or not. Nevertheless, the trial court found him guilty, convicted him i and sentenced him to serve 30 years imprisonment. He delayed to lodge his notice of appeal to this court. This court, D. B. Ndunguru, Judge granted the appellant's application for extension of time to appeal to this court. He thus appealed to this court. The fourth ground of appeal which is to the effect that proceedings of the trial court had some procedural irregularities, seems to have captivated the respondent. Ms. Marietha Maguta learned State Attorney who appeared for the respondent at the hearing, readily conceded the appeal saying that there are procedural irregularities. The plea was not equivocal. She cited Laurent Mpinga v. Republic [1983] TLR166 where this court had these to say: "An accused person who has been convicted of an offence "on his own piea of guilt" may appeal against the conviction to a higher court on any of the following grounds A. That, even taking into consideration the so called admitted facts, his piea was imperfect, ambiguous or unfinished and for that reason, the lower court erred in law in treating it as a piea ofguilt. B. That he pleaded guilty as a result of mistake or misapprehension. 2 C. That the charge laid at his door disclosed no offence known to law. D. That upon the admitted facts he could not in law have been convicted of the offence charged." I agree that there was procedural irregularity in the proceedings of the trial court for the reason that when the facts of the case were read over to the appellant, he was not given a chance to comment on the facts. To me, that amounts to an unfinished plea. In the circumstances, conviction has to be quashed and the sentence set aside, I proceed to do so. The respondent did not press for trial

de novo. Understandably, the appellant has served a substantial part of the sentence, it is, therefore, inexpedient to order for a trial de novo. That said, the appeal is found to have merits and is allowed. It is so ordered. DATED at SUMBAWANGA this 29th day of June 2022 J. F. NKWABI
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CASE PAGE	https://chat.esheria.ai/case-law/tanzania/haruna-so-mabala-v-the-republic-rape-tzhc-2022--6a3ea52c3b1caa91298250c6

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