

TANZANIA / JUDGMENT

19831104 TZHC Arusha1

COURT
TZHCDECIDED
4 November 1983

Source: media.tanzlil.org · Research copy typeset by Esheria. Not court-issued or certified.

JT ThE HIGH C00112 0 TJZ.NIji iT JtRuS:L. .. 0 EIGH CO URT 1.INIL iiTEiL NO. 75 OF 1978

- ORIGI1LCiILfTLL CiSE 1224 of 1977
- OR THE DISTRICT COtTRTOF M0SI DISTRIOT 'T ..iJOSHI. ISSfi.I JELL4NT VJiR3US: . TrIE REUBLIC. RESIODENT £ JTJDG' II N T J.CD'oaza L.G. JUDGE. JhJs rn ap)e -il by one ta \$wai who was on 15.2.78 convicted of corrup±.on.c/s 3(2) i even ion of Corruption Act. 1971 and sentncd to the riandatory thre years lfpr1sonennt. The appeal as fld by one f Nsik. Eoq, dirocte on 10.5.78 . On 2/6/79 the Hh Court Ro siy received a lctter doted 21/6/79 irc fir, P. Hsiska informing the court thot ne was witherwi [roil the a)peal for 1acc f inotrtriction The saie \JaO cofaed to the 'ri'orls officct, ICrana rison for infor otion of bho appellant. A rhiS coL..nsel had iithdraw fl froa the a -'pcal, on 11/8/79 the apollant as served in person withn tice Of hearing of th appeal • Ilc endorsed it that he c'ic' not \n.sh -bo be pcent anö insitec that his advocate reprcsnt.him. six hering dates were fixed but the epcal could not takô off as serf o ws not efeôtd on th a1o11ant. The appellaht, at th test, nu.s hove been relea - from prison inThbrua'y:j9\$J.I,añd ince then this coux does not even have 1s addre for ervicc. For couplicnco with 5.318 Crimnel ocedure (rdo it is a pro - reguisito that the court shoJ.dhaveUw t.Lidress for s;rvice of the alpellant. The duty o providing 0,.ch address; or of n:tif'yin changes therc..n, rests oft -U4 appellant. He has failed, to - diècharge batduty an ther than striking off this anpa1 I. ordered or. 23.9.83 that it proceed exparte I then resorvod my reacons they are as bove stated. 1,-, The evidence of the. f-;. seeution 'as e.entially 'that o± • three 7itnesses - P71. ThI3ctor Mchoiba, I2 nspcctor I.aya and Vi3 7.. 307 D/Cpl. El.zjetb Of iehree, the main witness is Inspector Mchoa He told the o12rt that on. 12.12.1977 he was acting'itricct Cfficer Iloshi. On that day appellant's dàhter ws,in• .tLe custody suspected to have unalawfully aborte \ her .Df1 c1 'I d ri, on • 0' appellant's request granteher bail. On • /2.77 the •. appellant cane to P'7l's off:ce and regues - d 1 not to send the girl to court. He hand I7l a newspE er and told him he would find his present in.the newspaper, fij. opened the newsapr and fornr r\nn nato of shs,1001= kh(:1'ein. He kept the ncvispaper on the desk an ' told the app1ant to wait. P1l th H'ned the other 'tvio prosecuUoL witnesses and 0 I they both cane to the office. \ •, •.

- . . . 6, ... PW2 a4 3 then asked Pw2 and 3 then asked the appellant 1: i, at his job he was and he told then that he was praying to EW1 not to take his daughter to court. P\7l then asked the appellant about the newspaper and at that time the appellant grabbed the newspaper from the desk - -
- 'sk and tried to tear it. On PW2's orders he stopped tearing .. -4 up the newspaper • The appellant asked for pardon but the three police officers took firm. IQ. His defence, the appellant admitted that on the day in question he went to P71's office. That states that he went to .5 complain about the delay in taking his daughter to court. He denied having gone into the office with the newspaper with shs.100/- in it. The stated that the prosecution witnesses had framed him as when he entered PW1's office the newspaper was on the desk already. The trial court believed the ; S prosecution witnesses and- disbelieved the appellant. On the facts I find ;-.e was quite entitled to do so... - The appellant story that he went to the office of P71 to complain. as to why there was a- delay in taking his daughter to court sounds P. and is contrary, to - normal human behavior especially considering that the 'l is already out on bail. r, W1 did not know that appellant did -rig to see him and he (PW1) - would be a v'ly nasty man, to have kept the newspaper with 100/= in it on his desk 2 that the appellant came in and he tripped. The appellant is an old man of over 66 years and I find it inconceivable that in the event of any notice or previous quarrel the three officers VJLILi1d. set such a trap for this old man who already had enough troubles in the world. This is one of those few cases where I believe that the court could safely convict on the -le evidence of police officers in a corroborated case as the evidence is cogent and from the circumstances one can safely, eliminate any danger that it was , framed up. This case J 15 accordingly entered in its entirety. 4 J .C .D t OIZA AG. JUDGE 4/11/83 Delivered on 4/11/83 In the absence of the parties who are to be duly notified by the TJ is -brct Reiterated. J C.D'JZ AG. JUDGE 4/11/83 JCSD/sau,
- . V.- S _-_-_. - 5 S .. -. . S - - - - S - -

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE https://media.tanzlii.org/media/judgment/351237/source_file/3416c0ce35835965/19831104_TZHC_Arusha1.pdf

CASE PAGE <https://chat.esheria.ai/case-law/tanzania/issa-swai-v-the-republic-corruption-tzhc-1983>

Prepared on 23 October 2026 · Esheria