

TANZANIA / JUDGMENT

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TZHCDECIDED
1 January 1976

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- ..T ititOhA nITrnf SDICTI RILI COURT cRIU1b:I I:..117lj:iIJ ITO. 211 OF 1979 NO. 68 OF 1979 Oi TTR DISTRICT COURT OF I.Suf DIbSRICT 1tT MASFA i3efor D., M..IIIZI Es., District Neistrate JTSRTT •JIYVO. ,.. • , • , 00• .AFThSIJLANT viiiisus (Original Accused) THERSFT JDIIC, , .•. 0000000000000 ,RUSFOITDENT (Original Frosecutor) CHRRqE: Cattle theft c/s 268 (1) of heFepal.Code Cap. 16 of the Laws, JR D RN U RTfl.' :M.A, J, 0' JISNA s,/o JIYAVO appealed against a conviction of cattle theft c/s 268 and 265 of the Renal Code and a. five year tandatory sentence. On the hearing date, I allowed it. I quashed the conviction and set aside the sentence. I further ordered that the appellant be set free at once unless be wa lawfullr belng held on another matter. I now give my reasons. The evidence on record sufficientl.T shows that on 18th November, d/o 1976, some cattle belonging to one Shina/Tladuhu living at Maswa Distri- c-h, were stolen. As to who was the 'thief, the evidence is very scanty. Nobody saw the thief - the evidence that led to the conviction of the appellant was thus circumstantial. The cuality, of this evidence was poor - for a start there is no proper evidence of identification of the cattle found at the Jaal of the anpeilant as havinF been amongst those that had been stolen.. from the complainant. Secondly, even if the cattle had been properly identified, the doctrine of recent posse- ssion would, in this case, have been in applicable in view of the lap- se ryftirne between the day of the theft and the time two cattle were found., The time lapse was over three months 0 Thirdly following the alleged spotting of the cattle by its owner, it again took months before the appellant was arrested. Thc speed o± action on the part of complainant does not paint well the credibility standing of the comp- lainant. If the cattle were indeed hers, in a land where ownership of cattle perse meenm everything, she would have ii oved like a. lighting. - For these reason. I allowed the aupeal. I may only add that Mr. Mussa, the learned State Attorney did not support the conviction. He further stated ti-at he had great difficulty following the language of the trial magistrate. I, too, had great difficulty in trying to follow what is being said, .;fter a long period, I happily managed," though with difficulty, to decipher whet was being said..

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