

TANZANIA / JUDGMENT

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TZHCDECIDED
29 April 1971

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p IN THE HIGH COULT OF TJFZANIA AT LILA1TZA Appellate Jurisdiction CRIIVIINJL APPLAL NO, 514 OP 1970 (0rina1 Criminal Case No, 67 of 1970 of the district court of Shinyai'a before D. J. Gumbo Esq., district magistrate). JO1'1ATIHAIT s10 CHCIIA AILLJdTT (orIGINAL ACCUSPL) versus THE PUfEIC . . . , . , ., FLESPOFDENT(OIIGINAL PLOSLOUTOR) CIAGE:- Stealing c/s 265 of the Penal Code. MNZAYAS, Ag.J The appellant, Jonathan Chacha, was charged with and convicted of stealing controxy to section 265 of the Penal Code and s(ntcnceQ to three years' imprisoinent and twenty four strokes corporal punishment • He has now appealed to this court against the convi tion and the sentenee It is not in dispute that the appellant was, up to the time he was charged with this offence, anployed by TANESCO in Shinyangan as a cashier. On the day of the theft (ic, 15/1/70) at about 11 a.m., the appcll131 repted to his branch manager, one 1T1wenda(P.W.5) that someone had snntched money from his counter and had run away' He was ordered by the manager to cheo the man. This he did and with the help of pass er-bys he apprehended the man This man who later becne the seco.d accused in tho lower court was found with a total of ,i000/- in ,i00/- currency notes Appellant's accounts were later checked and a shortage of 3.12 9 000/- was found • The appellant said the money was in an envelope and that it wa the raonoy the second accused enatched and ran awaywith. The police were suspicious and decided to search ppellaft s house. In appell.nt' s house they found a total of 3.675/50, The appellant was arrested and charrod as the first accused After scrutinizing the evidence, the learned district magistrate cc to the conclusion that the theft of the money was the resull of a conspiracy between the appellant and the 2nd accused and he convicted both of them of the offenc:: as charged. LIr flugarabiu for the appellant argued that there was no evidence whatsoever to connect the appellant with the stealing of the money. Accordin to the defence, there was no evidence to support the conclusion by the locned trial magistrate that there was an arrangement. between the appellant and the second accused to steal the money'. It was argued that appellant's. defence in th4ower court was straight- foniard and compatible with innocence. There was also argument that the money ,675/50 found in appellant' a house Was not in any v;ay prpared to be part of the money' stolen from TnTESCO • , qtrcctdu otIT JOJ nqIUkj OT1qnde{ OtT JOJ *Cznos Ca 1L/i7/6 sAtzixii SI SJ Y 'It(O aoT{Toula tflTM UOTOOtUOO UT PICLI 1 TUJA1 tSSOTUII t -ttq.xo,j posno uioi,z poioei eq on quuOdd et OV SO DUO UOS Ett1WTUTW Ot optxn txir[U; SO DU930 O3Ct tioI; trçe9qS 'O Eut pOuiUO Ot. ;o qT;OuOq r° DUO Tou s ou. JOj .'TUEJO33cp woLj pO3Jq. 'SpesnoDo Ot UTOUOq.UOS UT 'ott A.IM oos o o; i 'qoy so ot qJxo auirçtrçj oftl. lOpUn ITO; spun; oosaiw xTlOe.S qUt[q LflOtO C JqST?Cm DOfOI OLIT ;i iuo r

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