

TANZANIA / JUDGMENT

19760625 TZHC Arusha

COURT
TZHCDECIDED
25 June 1976

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- IN TNTE irn:- COURT OF TANZANIA f·1J f'PTTST-TA APELL'TE JURISDICTION HIGI-1 COURT CRIiIINALAPEAL NO. 53 OF 1975 ORIGINAL ORIi.INAL CLS NO. 214 OF 1974 OF ThJ Df3TdIC COURT OF HBUIU DISICT AT I'BIJLU BEFORE: P. N. MOSHA, Esq., istrict Magistrate t7TrTi fT , JUJ11i.LLL. JUJN..L1.I ., . . . , . . . , . . . , • (Original Accused) versus THE RPPUELIC (Original Proscutor,) JUDGT TT1rnu'T The appellinab was convicted on. -two counts of stealing iDy Puthlic servant, c/es. & 265 of the Penal Code. He got the minimum sentence.
- The appellant at the relevant ti.:ies was a messenger eDplo,---d in the -public service at Ilawi ward, Mbulu District. There is no ispuc thaw P.1.2, the ward secretary gave the
- appellant several receipt books to enable mm to collect, as reards the let count, contcibutiohe to a fund for building a school and, in rulation to the second count, TANG subscriptions. There was suspicion that the appellant had raisappropriate bed the cclloctimns and P.W.2 found it V necessary -to report to the police. P.1,1 of the Mbulu Police Force ached the accuoed to hand in the receipt books and the collections ho had received. The apjellant said the money was at his house but not tia books which, he said, were with 7.4, the T1.1qU Chairman. All three proceeded. to ccc P.1.4. However, the wit!c-ss denied havin: any rec eipt books. The appellant, apparently going on his first statement, then gave out one receipt book which via on him, in whi - bh he- appears to have received a total cur of 03.1673. The -cCus , when asked aDout the money said. he had none dnd -asked for time to find its From the•re all four proceeded to the aaeellant's house to search it.- There-, he gave them another receipt book. Ho had received shs.384 being TANG subscript:ens. i-ic- however produced >hs.300 only. V It later transpired, and there is agreeoni, that the apel1ant had received in rcspect of another receipt book the sum of Os.490 from P.1.3 being contributions towards the fund. The aoellanu in his unsworn stat erent claimed that upon taking ihc prosecution witnesses to his house he had roe cived the sun of 0.2400 from his wife which he duly handed over to P.1,1. His wit c in her evidence supported this • It was, however, re j ectod by the learned trial magistrate, this I nay say rith ample justification. ItwaS _. 2 It was unthinkable that there had boon a conspiracy on the part of the prosecution witnesses to swindle the appellant of the nonoy, and it is iot ir'o1vant that ho gave no reason for flot insistin for a rece.it if in fact he gave tnen the noney • The chairnian in his evidence said that the apseilait had earlier on approached hin: for a loan of sL3.1000 to cover a shoriago in his account. This does not appear....to.hve boon refuted by the

appellant and, it seons clear to he had,io nonoy otherthan the 300avhich he handed. eve
Accordingly, I an satisfied the appeal has no norit and it is d.ionised in its entirety. (p. i.
JON.THLJT) . J11DcE. JudL ncnU delivered, in cpon Ocuit this 25th day of Jthae, 1976. (: j
JQfTJTj..LjT) JUDG C

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