

TANZANIA / JUDGMENT

19851202 TZCA Dar es Salaam

COURT
TZCADECIDED
2 December 1985

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(,) .. IN THE COURT OF APPEAL OF TANZANIA AT MWANZA.4 CORAM: MUSTAFA, J.A.;
IVILLK.111\1E, JtA. And KISLING.11 1 J± CRD111fAL APPEAL HO. 56 OF 1984 BETWEEN LEONATI~
SELESTINE. ~ • • o o APP~LIJINT VERSUS THE REPUBLIC. , ~ e o RESPONDENT (ilppeal from the
Decision of the High Court of Tanzania at Mwanza) (Ivlunyera 1 J.) dated the 24th day of August,
1984 in Criminal .Appeal No. 76 of ~ 1984 JUDGEIVIENT OF THE co~ MUSTAFA, J.A.: Th is is a
second appeal. The appellant and 3 other persons were charged with armed robbery. They were
alleged to have broken into the house of p.w.1. Both P.W.1 and p.w.3 who were in the house
identified the appellant who was Accused 2 at the trial and another person Accused 1. They did
not identify the other two persons. Both p.w.1 and p.w.3 had known the appellant and Accused 1
previously as they lived in the same village. The trial Court found that P.i-J.1 and P.W.3 had
properly identified the !lppellant and l\c-cused 1, and found that the robbery took place as
alleged. He convicted the appellant aPi ~caused las charged and sentenced them to 7 years impr
isonmen 1¥ Both of them appealed to the High Court, and the ground of appeal was
identification. The High Court confirmed the finding of the trial court and dismissed the appeals.
Now only the appellant is appealing to this Court. He is again appealing on the question of
ider.tification. In our view identific3tion is a question of fact and since both the courts below, on
evidence adduced before them, have been satisfied ~ e l l a n t was •..... /2. • - 2 prop~I'y
identified, this clppeal is incompetent f\S no lc.tw is involved and is dismissed.]1-i'TTI'] at
i.'JIW.t1N"Z .. , this 2nd dny of December, 1985. • \ 1 JUSTICE OP -.PPE'1IL -•4"~"ft" ,_• • ~- "'• '7' J""I'-.
- t " .;we ..., t o : : : ' 7 ' - ~ ~ I certiiy that this i:'. u trne; copy of thG original. ~ (S. J. LJJ:..:'.N...:1)
ngrU'l.1Y l:L'Ll i srm ATI. _ _ ,,, ,,, _fo ... --111..~--'-':::!!o~ ~ ,. .. ~ i I

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