

TANZANIA / JUDGMENT

19820607 TZHC Tabora

COURT
TZHCDECIDED
7 June 1982

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- j. .. IN THE HIGH COTJRT OF TANZANIA 7 AT TAB. APPELLATE JURISDICTION ('Tahora Registry) (Hc) CRIMINAL APPEAL NO. 49 OF 1980 Cf. Cr. App..48/80 ORIGINAL CRIMINAL CASE NO0 635 OF 179 OF THE DISTRICT COURT OF TABORA DISTRICT AT TABORA Befoe L. MASOLWA Esq., District Magistrate — — N GO NDBA APPELLANT versus (Original Accuse 0 000 0 0 •4 0• 0 •••• C 0 00 •C 0 • 00 • RESLI l.a.QENT C I 0 0 • 0 0 0 • I I I 0 C • I I I • (original Prosetor) Qhar- let Count:- Workshop breaking c/s 296(1) of the Pen.l Code 2nd Count:- Stealing c/s 265 of the Penal Code

JUDGMENT

RtJB.a. Mathias and Ngosi Ndeba were charged with and cOn\icted of workshop 1.reaking c/s 296(1) of the Penal Code and stealing c/s 2(5. of the ;jnalCode. They both appealed to this court. The, appels ware consolidated. However on the hearing date of the appeal, George Mathi: s was absent. He had wanted to be present. So his apperl war not heard by me. I only handled the appeal by Ngosi Ndeba. The evidence against Ngosi Ndeba is that he had been the waoliman at the Thifita Railways Workshop on the night the workshop was broken into and several items stolen from therein and secondly that he had been ntioned by th. person wit who' via. fouaa a e.7ing machine st- oler f'om the broken into workshop some three months after the breaking in t it (the maciine) had beeti sold to him by tgosi Ndeba& This pere n who had made this claim was a co-accused. Ngosi Ndeba chose to remain silent when called to dend hiself in ter:'s of S. 205 of the Criminal Procedure Code. Tbo evidence against the appellant is very insufficient. Lic appellaii; .ould not even have been called to defend himself in terms of S. 2C, C..P.C. I accordingly quash the conviction and set aside tho sentence., The appellant is to be set free at ctce unless he is awfai- ly held 'n another matter. \.. Y.AHYA PTfBAT"r&,J 7/ô/82 7/6/82 Coran: Y Rubana — Judge Mr. Mussa — State Attorney for the Republic AppeJ'ant — George Mathias — Absent

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