

TANZANIA / JUDGMENT

19830812 TZHC Mbeya

COURT
TZHCDECIDED
12 August 1983

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H; IJ. Ta IIIGH ATMBEY8 -ELLE JUBISDI CT ION /theya Registry) 'thThIINL ILJL'NO. 107 OF 1981
OBIGINL CRBiaNL csi NO. 436 OF 1980 OF THE DIRICT COURT OP LIBLY-i DIST1IJT AT LhiYA
Before P. R. Bateyunga, Eq., ResidentJW1agiStrate

- , ... , . . iPELLJT N • J • C. 11Và.ISU1iO • , , •. VhBSUS THE HPUIC , .e....ss. •...
•...•••a •• EJ1SP0NDIT CE.RGE: &bi with oeno .42a5. and 286 of the Penal Code, JDENT
MtINYERA, - J. qvv ~ The appellant was charged jointly with anot& for robbery. It wa satect
that during the night of 10/11/8 the ap' Jiant and bi robbed the complainant of his various
artio3ea, :lothing, sewing machjje,
- radio cassettes and record player. Some artici. v;oro seized .f.roni th -C appellant such ae
radio cassette, bed sheets ot The proscutior jed \. to prove their case and both, the appellant
ari b!s co—accused were acquitted. However the trial rna4strated ordered that some of the
Jtva aeized from the appellant be 'etarned to the coLplainant and other ç treated ae
uncj.aimd property and handed to Against this of restitution of property the appellant brou
tüs appeal. I find that there were rival claims over th rticles found in paio. of the appellant.
The trial mgistrate found t 11, the prosecutiàn d failed to prove the identity of the appellant
aEH robber. Of.cour they SN\ al?o failed to prove the iderrt1ication of the aicles found in
poeson the appellant otherwise the doctrine of rech. possession would have appl,,4ed. That
being so it w9 then eXroneous to iepri'e the ap.pel1.t of hi4 property. I allow thenppeal. I sot
asiie the order of the tia3. magisat, •JJ a.r±icles fouzid in the apellant's posion skJ4 restored
+.o hjm.pr their vali.e thereof if thoTh.ve been sold. At Iv beya, F .

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Prepared on 28 October 2026 · Esheria