

TANZANIA / JUDGMENT

19770111 TZHC Tabora

COURT
TZHCDECIDED
11 January 1977

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I V.

- IN THE .HIGH COURT OF TANZANIA iT TABORA ..LPPELTE JURISDICTION V
- (Tf,BORA REGISTRY) CRThINAL P:EAL NC. 155 CF 1976 ORIG1fIAL !cRIInuL cz]i nc. 606 OF 1975 OF The ZISTRICt COURT OF KIGChA DISTRICT AT KIGCA Before: J. S. Kimenya, District Magistrate : NO.B. 7657 P.C.PATRICK APPELLANT versus TTTT r ITST1' J.fl2j n)j.,ruus.,s', ...e•.e•...•..o e.e•... RESPONDENT I 1st Ct:. - • CHARGE: Corruption with Agent c/s 3 (1) (3) (a) of the Prevention of Corruption Act No. 16/71. 2nd Ct: Corruption Transaction with Agent c/c 3(1) (3) (a) of the Prevention of Corruption Act No. 16/71. J U D G M E N T MAPIGANC, J: The appellants No. B. 7657 P.C. Patrick and No. B. 8148 P.C. Ezekiel were convicted on two counts oharZing corrupt transaction with agent contrary to Section 3 (1) .and(3) of the S Prevention of Corruption i-ct, 1971. Each ;ias sentenced to imprisonment for five rears and three years respectively and these sentences were directed to run concurrently. They have appealed from the convictins anc the sentences. The evidGnce, bofore.tho lower court loaves no reasonable doubt as to hc.àppe1lants' guilt on both counts. There ws evidence from the two corpleinants which ITQS corroborated in some material particulars th t the -ppellants jeintly solicited and ob'ainod from the corplaxnants sums of - oney as an inducement to forbear from arresting thL complainants for certain offences. The a.cusod w-ere then constobls in the c1lco xorce. in the last analysis, thQnlyissue was one of creolDility and I have no reason to thl lLk th - t the triil court erred in accepting the evidence of the pro.secutio'i witnesses and cisbelieving that of the appellants'. I ill dismiss tie ppeals in so fr as they relate to the civictions. As pointed out above, the triel court gavocach a term of five years imprisonment on the first cc - unt and t1ree y-ars ir'prisonment on the second count. I am of the view that there was. no reasôrj or the court to pass a sentence ich was longer than the minimum in respect of th first count. Indeed, the learned Magistrate himself did not give any reas:n why he deemed it proper to pass such a longer sentence. The sum involved .9...../2 el involved, Shs.600/, was small and certainly tis would not have justified - longer tern. !s h a s been sid by this court, the element of deterrence h-.s, .to a c,onsiderblo extent, been ta.on into account by the minimum sontqnces under theprovisions of the llnimum Sentences Act, 19721. and the. co .rt should, I think, be reluctant to. surpass a mininum. sentence unless the circumstances clearly call for it. I *111, therefore, reduce the sentenceon tl-iofirstcoünt to.three yëiS - Accordingly, save tht

limited extent, these appeals are dismissed.: . .L. . . . Trci'nouncec! in Court. 1'r. Masaba for
the Republic. f Tabora, D. P. 11th January, 1977. JUDGE. 11

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