

TANZANIA / JUDGMENT

na TZHC Arusha 10

COURT
TZHCDECIDED
1 January 1971

Source: media.tanzlii.org · Research copy typeset by Esheria. Not court-issued or certified.

IN THE HIGH COURT OF TANZANIA AT ARUSHA APPELLATE JURISDICTION HIGH COURT
CRIMINAL APPEAL NO. 221/72 Original Criminal Case No, 1285/1971 of the District Court of
Kilimanjaro District at Machi before F.C.P. Lyasenga, Esq., R.M. PHILLEMOM MAPALA
MCHIIHIYO ,APPELLANT Versus THEREPUBLIC RESPONDENT
CHARGE: Corruption Transaction c/s 3(1) of the Prevention * of Corruption Act No. 16/71. 'S
JUDGE/LENT Patel, Ag. J. Appellant appeals against the Judgment of the learned Resident
Magistrate of Kilimanjaro District Court in which he was convicted of 'Corrupt transaction' c/s
3(1) of the Prevention of Corruption Act No. 16/71 and sentenced to 3 years imprisonment. In his
lengthy memorandum of appeal he has stated a number of grounds of appeal, and prays that the
conviction was wrong and he be set free forthwith. It was alleged before the trial court that the
appellant who was then a Senior. Court Clerk at Resident Magistrate's Court at Morogoro
obtained shs 60/= from one Samwelli Ndesamburo as an inducement so that the appellant may
destroy the court file of case No. 201/71, speed up the proceedings in case file number 5 of 1971
and supply copy of Judgment in case No. 335 of 1971. There are two sets of grounds of appeal.
One is on point of law and other is on evidence. Point of law concerns application by prosecutor
before the trial court for substituting the charge with detailed particulars after four prosecution
witnesses had given evidence. This application was allowed by the trial court. Appellant states
that this was bad in (' law and should not have been allowed. Going through the record it can be
seen that the substituted charge merely added particulars for the same offence and nothing
more. Moreover the learned trial magistrate invited the defence counsel if he wanted to recall the
prosecution witnesses who had already given evidence and cross-examine. To this the learned
defence counsel replied "I might recall". But in fact he never applied to the court for recalling any
of the said witnesses. The learned trial magistrate has both in his ruling and judgment dealt with
all aspects of law in details and held that the substituted charge with additional particulars did
not prejudice the defence and he allowed it. I cannot find anything wrong in his reasoning,
arguments, or conclusions on this point. I am satisfied that he was correct in this and his ground
of appeal has no merit. As for evidence the appellant has dealt in details certain contradictions
in witnesses' testimony. They refer to as to what happened in a room when the alleged bribe of
shs 60/= was passed on to him by Samwelli. He referred to the evidence of Samwelli, three police
officers and are Loti, in details and pointed out certain contradictions. Learned state attorney
conceded that there are certain slight discrepancies and said that despite them the prosecution had
sufficient evidence to prove facts. He said there was no merit in the appeal and that it should be

dismissed.

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE	https://media.tanzlii.org/media/judgment/348866/source_file/16e3d7bdf977aec5/na_TZHC_Arusha_10.pdf
CASE PAGE	https://chat.esheria.ai/case-law/tanzania/phillemon-mapala-mchihiyo-v-the-republic-corruption-tzhc-1971

Prepared on 13 October 2026 · Esheria