

TANZANIA / JUDGMENT

19701204 TZHC Dar es salaam

COURT
TZHCDECIDED
4 December 1970

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Judgment or Order on Appeal (s. 320) Criminal Form No. 33 (Approved by the High Court under Section 352 of the Criminal Procedure Code). Summary of the Appeal (s. 317) IN THE HIGH COURT OF TANZANIA AT DAR ES SALAAM JUDGE J. I. SAIDI CRIMINAL APPEAL No. 40 OF 1970 Original Criminal Case No. 27 of 1970 of the District Court of Dar es Salaam District at Dar es Salaam before the learned District Magistrate. SATILO 3/0 1 SAY A. 1 Appellant (Original Accused) versus THE REPUBLIC Respondent (Original Prosecutor) CHARGE: Attempt to Commit Offence 'c/as 380 9 381 and 382 of the Penal Code. y. y. I allowed this appeal on the hearing date, quashed the conviction and set aside the sentence. I will now give my reasons, In the first place it is not clear as to what the charge is. It was claimed by the prosecution, though not alleged in the particulars of the offence, that the appellant had given the sum of Sh. 3/40 to one Isaac Zvezi to pay his defence witnesses at Bulongwa village so that they may give favourable evidence in the case he was charged with arson. The trial was then going on and the defence witnesses had not yet arrived. The appellant admitted giving Sh. 3/40 to Isaac Xwezi and explained that he gave him this sum for burial of his meat and food stuff. This was not accepted by the learned District Magistrate. It appears to me that the appellant's allegation is true. In the second place the learned District Magistrate had on the day adjourned his trial and then ordered him not to go back to his village where he would meet and influence his defence witnesses. It does not appear that this order is proper at any rate. By doing so the learned District Magistrate compelled the appellant to live near the Court, Then the appellant gave another person some money and he claims that the money was for food. I think in the circumstances he should not have been charged with this offence. It was for this reason that the appeal was allowed. 1624f12-65/6Om/4up (A.SAIDI) DAR ES SALAAM JUDGE 4/12/1970

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