

TANZANIA / JUDGMENT

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1 January 1973

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(. IN THE HIGH COURT OF TANZANIA - c AT DODOMA ,. . 2AY75J APPELLATE JURISDICTION: L- I
... -----' HIGH COURT CRIMINAL APPEAL Nb, 144 OF 1974 ORIGINAL CRIMINAL CASE NO,
241 OF 1973 OF THE DISTRICT COURT OF NANYONI DISTRICT AT MANYONI BEFORE E. B.
MAGISTRATE STEPHEN SONGWEO 0000000 eoce000000000000e 000 . O .APPELLANT VERSUS THE
REPTJBLIC....000000000000000000.....,RESPONDENT C1-': 1s Count: Giving false information
to a person employed in the Public Service, c/s 122(b) of the Penal Code, 2nd Count: Unlawful
possession of Forest Produce, c/ss 22 and 26 of the Forest Ordinance, Cap. 389 of the Laws. J U D
G E N E N T MNZAVAS_- J. In this case the appellant was charged with and convicted of Giving
false information to a person employed in the public service and unlawful possession of Forest
Produce c/s 122(b) of the Penal Code and Sections 22 and 26 of the Forest Ordinance, Cap 389 and
sentenced to six months imprisonment on the count of stealing and Shs.2000/- fine or six months
imprisonment on the second count. He is appealing against both the conviction and the
sentences imposed. In his memorandum of appeal the appellant argues that the charges were a
"frame up" by Forest of fice officials in Manyoni in order to cause him his undoing as there was
enmity between him and the officers. The learned state attorney argued in support of the
convictions and referred the Court to the evidence that led to the convictions. There was ample
and cogent evidence to the effect that the appellant had entered a forest reserve and cut down
eighteen "Mninga" trees. He was seen in possession of these logs by a Forest guard (PW1) who
confiscated the logs as the appellant was in unlawful possession of the logs The appellant then
proceeded to Nanyoni, police station where he réorted that the Forest guard (PW1) had stoln his
18 Mninga logs valued at Shs. 2800/-, .. /2 . Acting on this information the police arrested the
Forest guard and kept him in custody for one night pending investigations. It was after the police
had irwestigated the matter fully that the charges of giving false information to a person
employed in the public servic.. ~ and being in unlawful possession offorest produce were
preferred against the appellant0 It is evident from the facts that the appellant had initially
obtained a licence from the Forest Guard (PW1) to cut down twenty trees. Under the licence he
proceeded and cut down twenty trees. His logs which he lawfully possessed were eventually
stamped with Forest office official stamp and he was allowed to remove them from the forest.
This was on 3/9/71. On 30/10/71 the Forest guard found that eighteen trees had been cut down.
Later the appellant approached the Forest guard and requested him to stamp the logs out of the
eighteen trees with the official forest stamp. The forest guard. declined to do so as the accused
did not have a licence authorizing him to cut down the trees.. The forest guard took possession of

the logs. It was at this stage tat the appellant reported to the police that the Forest guard had stolen his logs worth Shs, 2,800/-. Clearly acused's report to the police that the Forest guard (PW1) had stolen his logs was a false report. All that the Forestuard did is that he seized the logs as the appellant had failed to prove to him that he was in lawful possession of the lors That the Fordst guard had powers to seize the logs is clear from the provisions of section 20(c) of the Forest Ordinance. As the apeellant did not deny the allegation that he was found in possession of the logs the burden of proof .that his possession of the log was lawful was on him Section 22 of the Ordinance refers, - This he did not do. Indeed there was ample evidence that he was in possesson of the logs without lawful authority or excuse. There was, I agree with the learned state attorney's argument, sufficient evidence in support of the convictions. I see no valid reason entitling this Court to interfere with the learned district magistrate's finding. As to the sentences imposed the learned magistrate properly directed his mind to the fact that the accused's false report to the police resulted in the arrest, harassment and detention of the Forest guard, a totally innocent person. He also directed himself to the fact that the offence of illegal possession of forest produce is prevalent in the district. Taking these factors into account it cannot bsaLd , that the sentences,though severe to a first offender, they are ot. manifestly excessive as to warrant interference by this Court.. In the event this appeal is dismissed in its entirety. NO S. MNA S JUDGE Appellant absent and unrepresented. Kinabo for the Rep/Resp.

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