

TANZANIA / JUDGMENT

19760420 TZHC Arusha

COURT
TZHCDECIDED
20 April 1976

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

1. 'S IIT THE ic i COT UR C'd hui

- ' ;T I \ (---. HIGH COURT ORIL.r jLEiT1ILI. 1). 85 OF.]\$75

• ORIGHIL CRfl7hiA ChSEO. i166 OF. 1974

• OF TIE DISTRICT COURT 0I\I:D EZh-DI3TII.Q-2 hT iUHEZA BEFORE: . A. MJITA Esq.' ,Ditrit
•ipi;r:te

(i) EZEIIEL 1TIKODJU (Ori0ina521d cucci).....

(2) OIT TIhODEi..J (Oriiial 4th Accused) .) versus I T ... 0 • 0 •• .. o (Ori;inl i'ooecutor)
JUDGi. UHT 7hcri this ampoal cje on for h ri; 'oil 26/9/75 I a11ooc3. the apLca1 quaoled b:
onvictiois'and st aside the itncss and oro:cod tJ;ic release cf tb a15pol]_auits unless hold f o r
othor la'tful caue but I r..oervod..iiY roasons icr tae decision. i will flQv prucood to iVO those
•• one ilcief1U ot12Cr!iOq The appellailts, nanoly Ezekiel ref erroed heroin as the 7st
Apellaiit .iid iondaaieli ..:ocIr.u, otherwisE; reformed heroin ao the 2nd Appellant, were
jointly cliarec1 with two others with the offence of Storo1roakih c/s 296(1) of the Penal
Code. The charo aaiiIt one of tho accused as it,idram under Section 86(a) of the Cri:iiial
rocsciurc CocL and t.1. oeacr accused was qccuid 0 i0 t\$L I CourG. LiC Fj't c Second
ApDollants • wore 'onvictcJ and sentenced to 5 years inprisonnent, The:: appealed to this
Court 'aiIlet\ the 1% convictions 'and c3entdnc. 1 and the a:.'oal was dealt with as a
conao1idated ap al. / It was the rc'sccutioai c that on the 9/'10/74 the lot 11j1joLLant hirod a
landrovor free.. t.i; let Accused (the Of1O accuittcd) to be driven 1y th let nccus0c 1 . frau
Moshi to Anani in Liuhoza District to coll..cb a, rater pUfip at Kwaakoro Toa Estate. On the
way Jo •Kwaeoro Tea Estate, the lot accused and the lot aoo11aiit picked u the. 2nd appo1lant
who is a 1roth:..r of cne is c ap'e1lai1t, ana anetnc'r person in rsspct of wilee the. charos
were eu'oscquontly withdrawn by the prosocution.). Upon rcachin Kwardcoro Tea Estate at
nit, the party too: a water JJ P1i1d n china ifi a fs.reo be1ond111L to Kaekoro Tea Estate and
loaded it irlto • the landrovor an2

- started their journey to the landrover however broke down not far from the caraCe. The appellants loaded the car and left it in 301 Oldfield Road accused with ill-landrover, informed him that the two people who were doing the work of transporting the machine to India -
- T.LCS •• 00 ••••• •• •• / 2
- The let accused was found with the landrider and arrested by the tea estate owner the following; immediately after they had discovered the vehicle, since from the area. On information given by the let accused the hidden machine was found and the appellants were traced and arrested. Now the entire prosecution case against the appellants depended on the evidence of the let accused who was acquitted. This person undoubtedly an accomplice and the learned trial magistrate realized the point but he found that the let accused was a reliable person and after warning himself of the danger of convicting the appellants on the uncorroborated evidence of an accomplice the trial magistrate accepted that evidence and convicted the appellants. I agree with Mr. Lomboko Learned State Attorney that the convictions cannot be supported on the evidence. With due respect to the learned trial district magistrate was wrong in holding that the let accused was reliable, since as appears between his evidence and that of P.W.4, who was the real owner of the landrover suggests that the let accused could have been lying; in his statement about being hired to do some job; without knowledge on his part that the job involved theft. He claimed in evidence that he had sought and obtained the permission of P.W.4 for the alleged hire arrangement to go to a mine and collect the machine. But P.W.4's Gold. the trial magistrate in his evidence that the 1st accused who was P.W.4's driver did appear with P.W.4's landrover without the knowledge and consent of P.W.4 who had to report the incident to the police. Clearly the trial magistrate considered the contradiction between the evidence of let accused and that of P.W.4, he would not have held the let accused to be a reliable person. The trial magistrate would probably have convicted instead of acquitting that person. That why I allow this appeal. - c (F v L. 11LITL) C? JUDGES
- Judgement delivered. this 20th day of April 1976 at Harare in open Court in presence of Mr. Jaay, State attorney. . LN/MTPM. kc:. JUDGE. • -

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/349136/source_file/fe887a5c0aa3fea8/19760420_TZHC_Arusha.pdf

CASE PAGE <https://chat.esheria.ai/case-law/tanzania/unknown-original-prosecutor-appealagainstconviction-tzhc-1976>

Prepared on 25 October 2026 · Esheria