

TANZANIA / JUDGMENT

19791219 TZHC Tabora1

COURT
TZHCDECIDED
19 December 1979

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IN THE HIGH COURT OF TANZANIA AT TABORA APPEALATE JURISDICTION HIGH COURT
CRIMINAL APPEAL NO.15/79 (- ' • ORIGINAL CRIMINAL CASE NO.99 OF 1978 OF THE>.,
DISTRICT COURT OF BARIADI DISTRICT AT BARIADI Before Rwejuna Esq., District Magistrate. \
WILLIAMMSHOLO. APPELLANT VERSUS THE REPUBLIC
CHARGE: Corrupt transaction c/s 3(1)(3)(a) of Act No.16 of 1971 J U D G M E N T
MtJSHI, J. The appellant, WILLIAMMSHOLO, was charged with the offence of Corrupt
transaction c/s 3(1)(3)(a) of Act No.16 of 1971 and was sentenced to 3 years imprisonment after
being convicted of the same. He is appealing against the conviction and sentence. According to
the particulars in the charge sheet it is stated that the accused corruptly solicited Shs.600/- from
Chalya s/o Lini as an inducement to issue Chalya s/o Lini a business licence. However the facts or
evidence given by the complainant - Chalya do not seem to support the particulars of the charge.
This Chalya stated and I quote:- 'On 22/7/78 at about 10.00 I arrived at Bariadi. District Internal
Revenue Office. I had gone there to get business licence. Outside the office I met the accused As I
had a form from the District Development Director's office authorising me to get the business
licence he called me thereupon I neared him. I handed that form to him. When he asked me
whether I had a sewing machine I replied in the negative. He further asked me if I owned cattle. I
replied in the affirmative. Thereupon he invited me in his office. I obliged. In there he asked me
for Shs.720/- being income tax and a fee for a business licence. He added that if I went to
Shinyanga I would pay Shs.2,000/- being business licence fee and income tax. I paid him the
money - Shs.720/-. He then issued me exhibit P.1. On receiving exhibit P.1 it reflected Shs.120/-
only. On asking him what has happened to the Shs.600/- he had this to say: "Wewe mzee nenda
ukafanye biashara yako maneno yamekwisha." I went out and decided to go to the Police Station.
From this evidence, I find that the appellant took the money - Shs.720/- - pretending that it was for income tax. The facts did prove an
offence of obtaining money by false pretences. Unfortunately this court cannot
substitute conviction for that offence. This appeal therefore succeeds. The conviction is quashed
and the appellant must be set at liberty unless otherwise lawfully held. N. M.
MtJSHI, J. 19/12/79 Coram: N. M. MtJSHI, J. Appellant represented by Mr. Massaba - State Attorney.
Judgment read in Open Court. N. M. MtJSHI, JUDGE. 19/12/79

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Prepared on 13 October 2026 · Esheria