

IN THE COURT OF APPEAL OF TANZANIA

AT DAR ES SALAAM

(CORAM: MFALILA, J.A., LUBUVA, J.A., And SAMATTA, J.A.)

CRIMINAL APPEAL NO. 37 OF 1998

BETWEEN

SAIDI OMARI KOMBO. . . . . APPELLANT

AND

THE REPUBLIC. . . . . RESPONDENT

(Appeal from the decision of the Resident  
Magistrate's Court at Morogoro)

(Chillonji, PRM/Ext. Jurisdiction)

dated the 25th day of April, 1997

in

Criminal Sessions Case No. 39 of 1997

JUDGEMENT OF THE COURT

MFALILA, J.A.:

This is an appeal against sentence. The appellant was convicted on his plea of the manslaughter of his nephew Yoweri Seng'unda. Upon this conviction, he was sentenced to seven years imprisonment. This is the sentence with which he was aggrieved stating that it was too severe in the circumstances.

At the end of the hearing of the appeal against sentence, we had a distinct feeling that the appellant's conviction for manslaughter in the circumstances of this case cannot be justified as from the facts narrated at the trial, it seems the episode leading to the death of the deceased was more of an accident than anybody else. Miss Munisi learned Senior State Attorney who appeared for the republic shared this view.

In the circumstances, we have decided to use our revisional jurisdiction to revisit the appellant's conviction and having done so we hereby quash the said conviction and set aside the sentence of seven

years imprisonment. We shall give full reasons later, in the meantime, we order that unless the appellant is held on some other lawful ground, he should be released from prison immediately.

DATED AT DAR ES SALAAM this 3rd day of December, 1998.

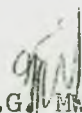


L.M. MFALILA  
JUSTICE OF APPEAL

D.Z. LUBUVA  
JUSTICE OF APPEAL

B.A. SAMATTA  
JUSTICE OF APPEAL

I certify that this is a true copy of the original.

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DEPUTY REGISTRAR