

IN THE COURT OF APPEAL OF TANZANIA

AT DAR ES SALAAM

nga, J.A.

(CORAM: Mustafa, AG.C.J., Mwakasendo, J.A. and Kisanga, J.A.)

CRIMINAL APPEAL NO. 10 OF 1980

B E T W E E N

RICHARD s/o KASEMBE . . . . . APPELLANT

A N D

THE REPUBLIC . . . . . RESPONDENT

(Appeal from the Judgment of the High  
Court of Tanzania at Dar es Salaam)  
(Patel, J.) dated the 26th day of  
October, 1977,

in

CRIMINAL APPEAL NO. 85 OF 1977

JUDGMENT OF THE COURT

MUSTAFA, AG.C.J.:

The appellant was convicted of robbery in a Resident Magistrate's Court and was sentenced by a Resident Magistrate to fourteen years' imprisonment. He appealed unsuccessfully to the High Court both as to conviction and sentence.

The present appeal to us is only against sentence. It is obvious that the sentence imposed on the appellant by the Resident Magistrate was illegal.

The offence of robbery is under the Minimum Sentences Act. We refer to section 7 (1)(a) of the Criminal Procedure Code. A resident magistrate in respect of the offence of robbery can impose a sentence of seven years' imprisonment, or eight years subject to confirmation. The sentence of fourteen years imposed by the Resident Magistrate here is illegal. We hereby set aside the sentence of fourteen years. We return the record to the Resident Magistrate's Court for it to deal with the question of sentence in accordance with the law.

.... /2

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

( G. A. RWELENGERA )

DEPUTY REGISTRAR

IN THE COURT OF APPEAL OF TANZANIA

AT DAR ES SALAAM

(CORAM: Mustafa, AG.C.J., Mwakasendo, J.A. and Kisanga, J.A.)

CRIMINAL APPEAL NO. 10 OF 1980

B E T W E E N

RICHARD s/o KASEMBE . . . . . APPELLANT

A N D

THE REPUBLIC . . . . . RESPONDENT

(Appeal from the Judgment of the High  
Court of Tanzania at Dar es Salaam)  
(Patel, J.) dated the 26th day of  
October, 1977,

in

CRIMINAL APPEAL NO. 85 OF 1977

JUDGMENT OF THE COURT

MUSTAFA, AG.C.J.:

The appellant was convicted of robbery in a Resident Magistrate's Court and was sentenced by a Resident Magistrate to fourteen years' imprisonment. He appealed unsuccessfully to the High Court both as to conviction and sentence.

The present appeal to us is only against sentence. It is obvious that the sentence imposed on the appellant by the Resident Magistrate was illegal.

The offence of robbery is under the Minimum Sentences Act. We refer to section 7 (1)(a) of the Criminal Procedure Code. A resident magistrate in respect of the offence of robbery can impose a sentence of seven years' imprisonment, or eight years subject to confirmation. The sentence of fourteen years imposed by the Resident Magistrate here is illegal. We hereby set aside the sentence of fourteen years. We return the record to the Resident Magistrate's Court for it to deal with the question of sentence in accordance with the law.

Looking at the record it is clear that the appellant would deserve a punishment which is greater than that a Resident Magistrate is empowered to impose. We would like to draw the Resident Magistrate's attention to the provisions of section 5A of the Criminal Procedure Code.

DATED at DAR ES SALAAM this 10th day of June, 1980.

A. MUSTAFA

AG. CHIEF JUSTICE

Y. M. M. MWAKASENDO

JUSTICE OF APPEAL

R. H. KISANGA

JUSTICE OF APPEAL

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

( G. A. RWELENGERA )

DEPUTY REGISTRAR