

IN THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS.

AT ARUSHA-TANZANIA

APPLICATION NO.....049.....OF 2016

FROM THE COURT OF APPEAL OF TANZANIA

AT BUKOBA

IN CRIMINLA APPEAL NO 313 OF 2015

ARISING FROM THE HIGH COURT OF TANZANIA

AT BUKOBA

IN CRIMINLA SESSION CASE NO 55 OF 2014

CHRIZANT- JOHN.....APPLICANT.

VERSUS

1. THE UNITED REPUBLIC OF TANZANIA }
2. AT TORNEY GENERAL } RESPONDENTS

THE EXECUTIVE SUMMARY OF THE APPLICATION

(MADE UNDER RULE 19 OF THE COURTS RULES AND PROVISION 17 OF THE COURTS PRACTICE DIRECTIONS)

YOUR HONOURABLE JUSTICES,

I the above named Applicant do hereby request your Honorable court to be pleased grant LEAVE the Applicant to FILE memorandum of complaint of VIOLATION of fundamental Human Rights and justice for consideration on the grounds, Viz;

1. THAT the Applicant was charged with the offence of MURDER contrary to section 196 of the Penal Code Cap 16 of the Laws, Revised, Edition of 2002.
2. THAT the High court of Tanzania at Bukoba in the Criminal session Case No 55 of 2014, found the Applicant guilty of MURDER and was sentenced to DEATH by hanging.
3. THAT, being aggrieved by the conviction and sentence of the High Court of Tanzania at Bukoba, the Applicant Institute his appeal as criminal appeal No 313 of 2015 in the Court of

Appeal of Tanzania at Bukoba, whereby that appeal dismissed in the court of Appeal of Tanzania at Bukoba.

4. THAT, being dissatisfied with the decision of the Court of Appeal of Tanzania at Bukoba, the Applicant now is instituting his memorandum of complaints in this court to show that the violation which the trial court and the first appellate court made to the applicant were manifested and also an unfair
5. THAT, the trial court and the first appellate court erred in law and in fact in confirming the trial court's holding that, the case for the prosecution in the respect of the charge and the MURDER had been proved beyond reasonable doubts.
6. THAT, the trial court and the first appellate courts erred in law and in fact to proceed with the defense case while was no court to close the prosecution case.
7. THAT the act of the court failure to comply with the section 293 (2) of the criminal procedure Act, Cap 20, R.E 2002, was the strong reason that the proceedings after the finding of the case to answer, was required to be Quashed or Expunged and then to order the case to return to the High Court.
8. THAT, the act of the COURT RECORD to be SILENT on whether the postmortem report which was the exhibit (P. 1) and the sketch map exhibit (P.2) were shown and/or read to the applicant in order to know its contents, the trial court and the first appellate court were wrong to convict the applicant based on those exhibits which was attracted the expunge from the evidence.
9. THAT, the trial court and the first appellants court erred both in law and fact to base on visual identification of VERONICA JOHN (PWA) who was an incredible and unreliable witness to convict the applicant without considering that, VERONICA JOHN (PW) FRAMED her evidence in order to implicate the applicant in this offence for being chased from the house of applicant's mother.
10. THAT, the trial court and the first appellate court did not assign reasons on why it discarded or disbelieved the defenses evidence and to convict and to sentence the applicant capital punishment which violates the right to life which is enshrined in the universal Declaration of Human Rights to which Tanzania is a signatory and it violates both article 13(6) (d) and article 14 of the constitution of the United Republic of Tanzania, 1977.
11. THAT the applicants request to this court is to be pleased to INTERVENE the UN constitutional of the respondent state and VIOLATION of the fundamental rights against

the applicant and restore justice where it was overlooked by quashing both conviction and sentence meted upon the applicant and SET the applicant FREE from the custody.

12. THAT, the applicant wished to be granted reparation pursuant to article 27(1) of the protocol of the court and rule 34(5) of the courts rules to remedy the violation

13. THAT, this court be pleased to grant any other order (S) or relief(S) that may deem fit and just to grant in the circumstances of the complaints.

14. THAT, the applicant prays to be facilitated with FREE LEGAL representatives or LEGAL assistance under rule 31 of the rules of the courts and article 10(2) of the protocol of the court.

15. THAT, the applicant will be supported by courts record proceeding plus its judgments.

CERTIFICATION

This applicant has been drawn and signed by the applicant at Butimba Central prison on 29th the day of JULY 2016.

(RT P)..........APPLICANT

(CHARIZANT JOHN)

VERIFICATION I am verifying that this application has been drawn and signed by the applicant and endorsed before me this 29th day of JULY 2016

(SGD)..........

FOR THE OFFICER IN CHARGE

BUTIMBA CENTRAL PRISON

P. O. BOX 38 MWANZA

LODDED at the Registry office of the African or Human and people's Rights P. O. Box 6274 Arusha- Tanzania, thisday of.....2016.

(SGD).....

REGISTRAR OF THE COURT

(ACHPR)- ARUSHA

TANZANIA.