

IN THE AFRINAN COURT OF HUMAN AND PEOPLE'S RIGHT  
AT ARUSHA- TANZANIA

APPLICATION NO 052 OF 2016  
C/F FROM THE COURT OF APPEAL OF TANZANIA AT MWANZA  
IN CRIMINAL APPEAL NO.209 OF 2010

MARTHINE CHRISTIAN @ MSUGURI ..... APPLICANT.

VERSUS

THE UNITED REPUBLIC OF TANZANIA ..... RESPONDENT

THE EXECUTIVE SUMMARY OF THE APPLICATION  
MADE UNDER RULE 19 OF THE COURT'S RULES FROM PROVISION NO.17  
OF THE COURT'S PRACTICE DIRECTIONS

Your Honourable Justice

*I, the above named applicant submit in the Court the executive summary under the following grounds:*

- 01: The applicant was charged for offence of murder C/S 196 of the (T) Penal Code in the above mentioned High Court and convicted on 30<sup>th</sup> July, 2010 so sentenced to death by hanging. Thus dissatisfying by the decision he decided to appeal by the supra criminal appeal which later was dismissed totally on the 11<sup>th</sup> March, 2013.
- 02: On his observation manifest errors in the Court of appeal judgment, the applicant filed an application No. 7 of 2013 in the appeal Court for Review of it's judgment. But the application is neither heard nor listed for hearing up to now.
- 03: As the decision and prejudice of the Court of appeal are resulting miscarriage of justice, the applicant present this application into this honourable Court under beleaving that the justice can be stored bo order of the Court to remedy the violation as it is of a human and peoples' rights.
- 04: In brief, the decision on the conviction had not considered the insanity of the applicant on conduction of the crime. The applicant was insane at the time of such act of shooting the decease. The insanity was temporarily while at the shooting as after it, he shocked on his bad action thus the following actions he was between right senses and insane.

- 05: Under such circumstance of insanity which had been caused by the intoxication when applicant before the crime was drunk hard liquor and smoke bhang affected his control and ability to lead in the matter happened.
- 06: The both Courts were required to comply sec 14(2) of the Tanzania penal code cap 16 to accept the defence case that the applicant was insane temporarily while conducting the crime.
- 07: On other issue of the prejudice of the Court of appeal to take the long period without hearing of the review application nor any listing of its hearing, in fact it is violating the fundamental right to be tried within a reasonable time by the Court. This is injustice against the applicant.
- 08: The Review application was lodged under provision of the Court of appeal Rules within prescribed period as stated in the Rule 66. It was registered by the Court at Past long time of at least three years. This is needed to be solved by the Court as the Court of appeal prejudice to hear the application, the procedure is violating articles 13 (6) (a) and 107 A (2) (b).
- 09: The applicant requests the Court to intervene the Court of appeal Judgment by quashing the conviction and sentence and set him free from the custody.
- 10: The application will be supported by copies of the Court's record of the proceeding, its judgment and the review application.

This executive summary of the application had been prepared by me, the applicant and signed by my self this 19TH day of Aug 2016

CERTIFICATION: The summary has been prepared by the applicant and signed by him before me.

This 19TH day of Aug 2016

(sgd) [Signature]

For OI/C BUTIMBA C. PRISON

Mwanza, Tanzania

Lodged at Arusha Tanzania in the Court Registry this \_\_\_\_ day of \_\_\_\_ 20 \_\_\_\_

(sgd) \_\_\_\_\_

THE COURT REGISTRY

(AFCHPR)