

IN THE AFRICAN COURT ON HUMAN AND PEOPLE'S RIGHTS  
AT ARUSHA

APPLICATION NO. 057 OF 2016

BETWEEN

MULOKOZI ANATORY \_\_\_\_\_ APPLICANT

AND

THE REPUBLIC OF TANZANIA \_\_\_\_\_ RESPONDENT

C/F COURT OF APPEAL OF TANZANIA AT BUKOBA

IN CRIMINAL APPEAL NO.124 OF 2010

FROM THE HIGH COURT OF TANZANIA AT BUKOBA IN CRIMINAL

SESSION NO.58 OF 2010

EXECUTIVE SUMMARY OF THE APPLICATION

(MADE UNDER RULE 19 OF THE COURT RULES FROM PROVISIONS NO.  
17 OF THE COURT PRACTICE DIRECTIONS)

I, the applicant present this summary of executive for the application as follows ground namely:-

1. THAT, the applicant is in prison custody at Butimba Centre Prison for awaiting execution sentence after being convicted for an offence of murder C/S 196 of the Tanzania Penal Code Cap 16 RE 2002 by the High Court on the 06/03/2014 then the decision was upheld by the Court of Appeal on the 23/02/2015.
2. THAT, the conviction was based on evidence of caution statement and evidence of circumstance by both courts after being confirmed that the prosecution case was proved beyond reasonable doubts.
3. THAT, on the applicant's <sup>side</sup> ~~side~~ the evidence was very weak as the caution statement whose alleged made by the applicant was retracted and repudiated by him as it was induced by violence, thus there was no voluntariness of him while it was taking.
4. THAT, although the statement was admitted after conducted a trial within trial but some facts were not considered totally before this decision. The statement was made at a ward hospital where the applicant was taken for treatment after some hours he was heaving beaten by a mob of people. At that circumstance, the applicant was not free agent on recording the statement.

5. THAT, pending the caution statement evidence, the circumstance evidence is very weak as the applicant had been suspected according to his habitat which alleged that he was theft. The applicant's ALIBI was not considered by the courts though he was innocent while he had later been attended the mourning place where he arrested for the incident.
6. THAT, if the courts would investigate well the evidence, they could observe some facts which show that the case was not proved beyond reasonable doubts. So it was not sufficiently to be used for sustain the conviction for serious offence like this which ended to the death penalty.
7. THAT, this honourable court is needed to solve the complaint and restore the justice as the court is violating the rights of human and people.
8. THAT, as the applicant is on death row and it appears from this application that, there exists a risk of irreparable harm to the applicant. So the court should make use of its power provided for under article 27(2) of the protocol and Rule 51(1) of the Rules to order provisional measures proprio motu of extreme gravity.
9. THAT, the applicant prays to be presented by the advocate by favour of the court at his attending at hearings of the application in the court.

VERIFICATION: The executive summary had been prepared by me, the applicant and signed by myself this 01<sup>st</sup> day of SEPTEMBER 2016

(Rtp) \_\_\_\_\_  
THE APPLICANT



CERTIFICATION: Certified that the summary has been prepared by the applicant and signed by him this 01<sup>st</sup> day of SEPTEMBER 2016

(Sgd) \_\_\_\_\_

For: O I/C BUTIMBA C. PRISON  
MWANZA TANZANIA

U. M. MKUU WA GEREZA  
BUTIKBAMW NZA

Lodged at Arusha in the Court Registry this \_\_\_\_\_ day of \_\_\_\_\_ 2016

(sgd) \_\_\_\_\_  
THE REGISTRAR  
(AFCHPR)