

IN THE AFRICAN COURT ON HUMAN AND PEOPLE'S RIGHT'S
AT ARUSHA
APPLICATION NO.....014..... OF.....2017.....
BETWEEN

HASSAN BUNDALA @ SWAGAAPPLICANT
AND
THE REPUBLIC OF TANZANIA.....RESPONDENT

C/F COURT OF APPEAL OF TANZANIA AT BUKOBA
IN THE CRIMINAL APPEAL NO. 386 OF 2015
FROM HIGH COURT OF TANZANIA AT BUKOBA
IN CRIMINAL APPEAL NO. 18 OF 2014
FROM DISTRICT COURT OF CHATO
IN ORIGINAL CRIMINAL CASE NO 69 OF 2013
EXECUTIVE SUMMARY OF THE APPLICATION

MADE UNDER RULE 19 OF THE COURT RULES FROM PROVISION NO. 17 OF THE COURT PRACTICE DIRECTIONS

I, the above applicant present this executive summary as follows:

1. That, the applicant is a mere applicant in the instant application as he was an appellant in the criminal appeals above mentioned whose originated from the supra Criminal Case where in he convicted for rape offence c/s 130 (1) (2)(e) and 131 (3) of the Tanzania Penal Code, Cap 16 R.E 2002 and sentenced to suffer life imprisonment in jail from 3th February, 2014.
2. That, the Court of appeal as the highest Court in the country violated applicant's rights of being entitled to equal protection of the law when it decided to isolate and refuse his two major of the appeal ground under reasons that they were appeared at first time before being discussed in the High Court Appeal.
3. That, on other side, in strangely the Court rised new issue which didn't discuss by the High Court and then it solved with out to consider, under favor of the applicant, that the issue is entitled him under the protection of the law.
4. That, the ground of appeal about age of the Victim (PW1) was required the proof of the age than its mention only. The evidence of the

Doctor (PW6) and PF 3 (RE 1) didn't proof the age by any means as there was no evidence of victim mother in the trial Court for **testification**.

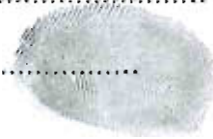
5. That, the other ground of appeal was for intoxication which had caused commission of the offence by the applicant. The Court rejected the defence of intoxication without to consider that the prosecution witness (Victim) was confirmed it in her evidence.
6. That, the new rised issue by the Court was the vore dire tests of the prosecution witness (PW1 and PW2). As the Court was observed that the test were not proper thus affecting their evidence, in strongly later it cust the burden of proof of the case in the applicant through his confussion instead of cust on the prosecution.
7. That, the above stated circumstance by the Court of appeal decisions are miscarriages of justice which violating the rights of the applicant to be entitled to the equal protection of the law as prescribed by the charter. Thus this honourable Court is prayed to solve the case for restore of justice and the rights of the applicant.
8. That, there is further err in the record which make the proceeding of the Court of Appeal null. That is the notice of appeal was defective as it had not noted in it the real High Court Appeal which was appealed against it in the Court of Appeal as it's number had not to been quoted. According to the law, notice of appeal in the Court of appeal is instituting the appeal thus if a notice is defective also an appeal is defective. Therefore in this case there was no appeal. This matter also needs to be solved.

I, humbly submit,

Dated at Mwanza this 13TH day of FEBRUAR 2017

(Rtp).....

The applicant



CERTIFICATION: Certified that the executive summary has prepared by the applicant and signed by him before me this Day of..... 2017.

(Sgd).....

For OI/C Butimba Central Prison
Mwanza – Tanzania



Lodged at Arusha in the Registry this..... day of..... 20.....

(Sgd).....

**Registrar of the Court
(AFCHPR)**