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**AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS
COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES**

Case Summary: Application No. 029/2015

YUSUPH HASSAN (Applicant)

v.

UNITED REPUBLIC OF TANZANIA (Respondent)

The applicant is a convict who is currently serving a 30 year sentence at the Maweni Central Prison, at Tanga, United Republic of Tanzania for the crime of armed robbery. He brings his Application against the United Republic of Tanzania.

The applicant has brought his Application on the basis of the following criminal cases (1) Criminal Case No. 292/2005, District Court of Muheza, Tanga, Tanzania (ii) Criminal Appeal Case No. 5/2007, Resident Magistrate's Court at Tanga, Tanzania and (iii) Criminal Appeal no. 152/2008 at the Court of Appeals of Tanzania located at Tanga, Tanzania.

The Applicant alleges that he was initially convicted by the District Court of Muheza at Tanga for the crime of armed robbery with other co-offenders and was sentenced to 30 years in 2006. The Applicant subsequently appealed to the Court of Resident Magistrate and the High Court of Appeals. Both the Court of Resident Magistrate and the Court of Appeals dismissed his appeals and upheld the decision of the District Court, on 29 May 2008 and 9 March 2010, respectively.

Aggrieved by the verdicts, on 5 April 2010, the Applicant states that he filed a request for review of the decision to the Court of Appeal. Yet, to date, the Court of Appeal has not considered the request for review and, thus, the Applicant asserts that this has occasioned unnecessary delay contrary to article 13 (6) of the 1977 Constitution of Tanzania and Rules 3(2) (a) and 45(2) of Rules of the Court of Appeals of Tanzania.

The Applicant further avers that he has been wrongly deprived of his right to be heard for the following reasons:

- i. While considering his matter, both the trial judge and the appellate judges did not consider the defense's evidence, in particular, the defense of Alibi. In this vein, the Applicant notes that he was not present at the scene of the crime and was arrested at a different area than the place where the crime was committed.
- ii. He received no legal assistance during the course of the trial or appeals while legal aid is available only for capital offenses. In this regard, the Applicant argues that this contravenes the right to equal treatment as enshrined under article 13 of the Tanzanian Constitution (1977), Universal Declaration of Human Rights (1948) and S. 310 CPA R.E 2002.
- iii. The doctrine of recent possession was wrongly invoked since the alleged stolen goods were not proved to be owned by the complainants. As such, there was no evidence that linked him with the said stolen property.
- iv. The trial magistrate and the Appellate Courts erred in law and in fact for failing to note that most of the prosecution witnesses lacked credibility.
- v. The identification of the complainant was not carried out properly. Neither did the complainant produce his business license nor Value Added Tax

registration to prove that he owned a shop at the material time and place where the crime was committed.

- vi. The trial magistrate and Appellate Courts disregarded authoritative decisions of the Court of Appeal of Tanzania and simply relied upon less authoritative sources.

In the light of all the circumstances of the case, the Applicant submits that the verdict of guilty pronounced against him was unsatisfactory. He also adds that unless the decision is conclusively rectified, it is resulting in prejudice to the smooth and effective administration of justice.

The applicant prays the Court to grant leave to his Application and set aside the decisions of the Tanzanian Courts convicting him for armed robbery.