

**IN THE AFRICAN COURT ON HUMANS AND PEOPLE'S RIGHTS**

**AT ARUSHA**

**APPLICATION NO. 003 OF 2016**

**C/F COURT OF APPEAL OF TANZANIA AT MWANZA**

**CRIMINAL APPEAL NO. 230 OF 2010**

**IN THE HIGH COURT OF TANZANIA AT BUKOBA**

**CRIMINAL SESSION CASE NO. 88 OF 2004**

**BETWEEN**

**JOHN LAZARO ..... APPLICANT**

**AND**

**THE UNITED REPUBLIC OF TANZANIA  
ATTORNEY GENERAL**

**} .....RESPONDENT**

**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 named applicant request this honourable court of justice, Humans and people's Rights to allow lodging a memorandum of complaints of violation of Human right and justice for the following reason:-

1. THAT, the applicant was convicted and sentenced since the 06.08.2010 to death in above mentioned Criminal Session Case, then the decision up held in the supra Criminal appeal on the 28.11.2011.
2. THAT, the conviction had been based totally on visual identification of single witness to the applicant. The court of appeal was supported finding on credibility of the witness from the High Court to satisfy that there was no speck of doubt in the identification.
3. THAT, the applicant on his part has observed in the court of appeal's judgment some serious misdirection on point of law thus he applied application in the court for review the judgment under provision of the court Rules 2009. Although the application was registered since 2012as Number 08/2012 but neither heard nor listed for hearing up ot now.
4. THAT, as the court of appeal is prejudiced to make review of it's judgment on ground that the application was registered for long time without to be

heard while other/same applications of other applicants were/ is heard though has registered in same registry after it. Hence this application to this honourable court to avoid serious miscarriage of justice.

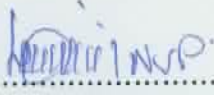
5. THAT, this procedure of the court of appeal has violating the fundamental rights of the charter of the court contrary to article 7 (1) ( c ) & (d) same as article 13 (6) (a) and 107 (2) (b) of the constitution of the united Republic of Tanzania 1977.
6. THAT, as the applicant was/ has no legal representative for the application in the court of appeal, his right to be heard was/is deprived leading to the prejudice. It's obvious the applicant was/is isolated on procedure of the court of appeal. This act is contrary of the charter of the court under article 3 (2) which required every individual to be entitled to equal protection of the law.
7. THAT, on matter of the failure of the court of appeal to observe the misdirection on point of law in its judgment is where it was satisfied by the prosecution evidence which was not beyond the reasonable doubts.
8. THAT, the court of appeal was ruled to convict the applicant by supporting trial court judgment which was not cited the specific provision for doing that. So the trial court has repeated the same injustice procedure for delivering the defective judgment within lack of point of law.
9. THAT, the alleged identification of the applicant was not established all elementary factors identity to be water tight thus it was not consisted by the witness immediately after the event.
- 10 THAT, the court had not considered fact that the applicant was innocent Person who attended the alarm earlist after the incident among few people who had attended in the scene. So how he (the applicant) had decided to come there if he was identified to participate the incidence.
11. THAT, the applicant humbly begs that, this court to re – store justice where it was overlooked and quash both conviction and sentence imposed upon him and set him at liberty.
12. THAT, the applicant wishes to be granted reparation pursuant to article 27 (1) of the protocol of the court as the procedure of court contrary to article 3 (1) of the African charter which needs every individual to be equal before the law.
13. THAT, this court may grant any other order (s) or relief (s) sought that may deem fit in the circumstance of the complaint.

14. THAT, this application is intended to be supported by a submission accompanied by a copy of the judgment.

This executive summary had been prepared by me, the applicant at Butimba central Prison at Mwanza and signed by I myself this .....<sup>10TH</sup> day of <sup>DEC</sup> 20...<sup>15</sup>.....

(RTP) .....  
  
APPLICANT

**CERTIFICATION:** I, hereby certify this executive summary has been prepared by the applicant himself and endorsed before me on this .....<sup>10TH</sup> Day of <sup>DEC</sup> 20...<sup>15</sup>.....

(SGD) .....  
  
For **OFFICER IN CHARGE**  
**BUTIMBA CENTRAL PRISON**  
**P.O. BOX 38,**  
**MWANZA TANZANIA.**

**K. M. MKUU WA GEREZA**  
**BUTIMBA MWI NZA**

Lodged at the Registry office of the African court on Humans and People's rights, P.O Box 6274, Arusha – Tanzania. This ..... day of ..... 20.....


(SGD) .....  
**REGISTRAR OF THE COURT**  
**(ACHPRO)**

**Served Upon:**

The Republic of Tanzania  
Attorney General's Chambers  
P.O Box 11492,  
**Dar es Salaam - Tanzania**

**Drawn and Filed by:**

John Lazaro/ APPLICANT  
c/o Oi/c Butimba C. Prison  
P.O Box 38,  
**Mwanza - Tanzania**

 <sup>10/12/15</sup>