



Case Summary: Application no. 007/2016

Matoke Mwita and Masero Mkami (Applicants)

V.

United Republic of Tanzania (Respondent)

SUMMARY OF FACTS

1. The Applicants are currently serving sentences for life imprisonment at the Butimba Central Prison in Mwanza, Tanzania following their convictions for rape and robbery with violence.
2. The Application is based on Criminal Case No. 26 of 2001 of the District Court of Tarime, Tanzania, Criminal Appeal No. 135 of 2001 of the High Court of Tanzania at Mwanza and Criminal Appeal No. 69 of 2002 of the Court of Appeal at Mwanza.
3. The Applicants were convicted of one count of rape and one count of robbery with violence by the District Court. The Applicants state that, being dissatisfied by the convictions and sentences meted out on them by the District Court, they appealed to the High Court of Tanzania at Mwanza in Criminal Appeal No. 135 of 2001, but before their appeal was heard by the High Court, the High Court substituted the life imprisonment sentence with a sentence of 30 years' imprisonment; the sentence from the District Court having been first sent to the High Court for confirmation. The Applicants' appeal before the High Court of Tanzania at Mwanza was subsequently dismissed.

4. The Applicants state that being still aggrieved with the High Court's decision, they appealed to the Court of Appeal of Tanzania at Mwanza in Criminal Appeal No. 69 of 2002. The Court of Appeal, in its decision of 3 November 2004, set aside the decision of the High Court imposing a sentence of 30 years imprisonment on them and restored the sentence of life imprisonment pronounced by the District Court.
5. The Applicants state that having no other local avenue of redress available to them, and being aware of the jurisdiction of the African Court on Human and Peoples' Rights they have now filed their Application at the Court, pursuant to Article 3(1), 3(2) of the African Charter, Article 3 of the Court Protocol and Rule 33(1) of the Rules of Court.

COMPLAINTS

6. The Applicants submit that they were convicted on the basis of doubtful and contradictory evidence of the prosecution and that, the trial court erred when it admitted and relied on the evidence of their identification without directing its mind to the salient conditions regarding proper identification.
7. The Applicants submit that the Court of Appeal erred when it ruled that it was satisfied with the evidence of the prosecution witness, while observing at the same time, that the evidence left reasonable doubts, which, the Applicants argue, should have been resolved in their favor.
8. The Applicants submit that these errors resulted in a miscarriage of justice and that the verdicts of the courts violated their fundamental human rights as enshrined in articles 3(1) and 3(2) of the African Charter.

THE APPLICANTS' PRAYERS

9. The Applicants pray for the following reliefs:
- a. The Court to grant their Application and restore justice where it was overlooked;
 - b. An Order quashing both the convictions and sentences meted upon them by the Court of Appeal of Tanzania and also a consequential order setting them free.
 - c. Any other Order(s) or relief(s) that it may deem fit to make in the circumstances of the Application.