

IN THE AFRICAN COURT HUMAN AND PEOPLES' RIGHTS

AT ARUSHA

APPLICATION NO. 014 OF 2016

C/F COURT OF APPEAL OF TANZANIA AT MWANZA
IN CRIMINAL APPEAL NO.26 OF 2010

C/F THE HIGH COURT OF TANZANIA AT MWANZA
IN CRIMINAL APPEAL NO.71 OF 2009

C/F THE DISTRICT COURT OF MWANZA AT MWANZA
ORIGINAL CR. CASE NO.1122 OF 2005

BETWEEN

MOHAMED S/O SELEMAN MARWA 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 submit into the court this executive summary as follows:-

1. **THAT**, I am a prisoner at Butimba Central Prison Mwanza Tanzania who convicted in the above noted original criminal case on the 02/08/2006 for offence of Armed Robbery contrary to section 287A of the penal code Cap 16 Vol.1 of the laws as amended by Act No.4 of 2004 and sentenced to thirty (30) years in prison.
2. **THAT**, being aggrieved by the finding, sentence and order of the trial court thus I had preferred an appeal to the above mentioned High court. The appeal was dismissed on the 3/8/2009 in its entirety, hence I appealed to the supra court of appeal which also dismissed the appeal in toto on 18/09/2012

3. **THAT**, immediately after the appeal being dismissed by the court of appeal, I passed through a copy of its judgment, thus observed that there are some errors in the judgment patent in the face of record resulted to miscarriage of justice which need to be solved.
4. **THAT**, I lodged an application in the court of appeal for review of its judgment, later I was informed that the application unfounded, thus lodged the application for extension of time for the review as prescribed, time was lapse. The application also had been dismissed by the court strangely according to my opinion. Hence this application in this honourable court on ground that I had been convicted by evidence which was not proved by standard required by law and prosecution case was not proved beyond reasonable doubts
5. **THAT**, as the conviction merely relying on the matter of identification of the applicant at scene of the incidence. The evidence was not established intensity and location of the source of light, distance between the applicant and observers on the incident, size of the area (room) of the scene and description of naming the applicant.
6. **THAT**, the evidence also has fundamental contradictions and inconsistencies which were park of lies against the applicant. These matters were confirmed that the case was not proved beyond reasonable doubts.
7. **THAT**, I request to this honourable court to re-analyse the entire evidence in the record and restore justice where it was overlooked by the courts and let me free from the custody.
8. **THAT**, the court may grant any other order(s) or relief(s) that may deem fit in the circumstance of the application.
9. **THAT**, this application is attached with copy of the record and copy of the judgment of court of appeal for supporting the application.

VERIFICATION: I hereby verify that what is stated herein above in paragraphs 1 – 9 is true to the best of my knowledge and belief.

Verified at Mwanza this 18TH day of FEBRUARY 2016

(RTP).....
APPLICANT

CERTIFICATION: Hereby certified that this executive summary has been prepared and signed by the above named applicant and endorsed before me this 18TH day of FEBRUARY 2016.....

(SGD).....
For: OFFICER IN CHARGE
BUTIMBA C. PRISON

K.H. MKUUWA EI
BUTIMBA MW NZA

Lodged at the Registry office of the African Court on Human and Peoples' Rights
P. O. Box 6274, Arusha – Tanzania this day of 20.....

(SGD).....
REGISTRAR OF THE COURT
(AFCHPR)

DRAWN AND FILED BY:
MOHAMED SELEMAN MARWA
C/O OI/C BUTIMBA C. PRISON
P.O. BOX 38,
MWANZA, TANZANIA

/..... APPLICANT
18/02/16

COPY TO BE SERVED UPON:

THE UNITED REPUBLIC OF TANZANIA /..... RESPONDENT
ATTORNEY GENERAL
P.O. BOX 11492
DAR – ES – SALAAM, TANZANIA