

IN THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

AT ARUSHA

APPLICATION NO. 018 OF 2016

C/F COURT OF APPEAL OF TANZANIA AT MWANZA

CRIMINAL APPEAL NO.103 OF 2007

IN THE HIGH COURT OF TANZANIA AT BUKOBA

ORIGINAL CR. SESSION NO.91 OF 2000

BETWEEN

COSMA FAUSTINE ..... 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 in the court this executive summary of my application under the following grounds:-

1. **THAT**, I was charged on the 5<sup>th</sup>.12.2000 for the offence of murder c/s196 of Tanzania penal code cap16 of the law in the trial High court then convicted and sentenced to death penalty on the 23<sup>rd</sup>.08.2006 at session sat at Karagwe District Kagera region.
2. **THAT**, dissatisfied by the High court decision, I appealed in the court of appeal of Tanzania at Mwanza where in the appeal was dismissed in toto on the 8<sup>th</sup>.11.2011 thus I applied for a review application in the court of appeal which was registered as cr. Application No.6/2012 for review of the court of appeal Judgment.
3. **THAT**, the prejudice of the court of appeal against the applicant defence and review application had resulted to miscarriage of justice, contrary to fundamental rights and violating the African charter 3(2) which required every individual to be entitled to equal protection of the law.

4. **THAT**, I refuted to kill the deceased; the issue was whether I intended maliciously. My defence was provocation. I had arrived in the scene of the incident to demand my money from another person.
5. **TAHT**, I had the knife as my common later I needed to prepare fish. Hence on quarrel with the deceased, the knife accidentally cut him in his neck which had caused his death.
6. **THAT**, the prosecution witnesses (PW1 – PW3) were not credible. Also their evidence is not credible according to contradictions and inconsistencies there in it. PW1 came when already the deceased was stabbed. PW3 had differed his evidence with his statement.
7. **THAT**, the court had erred to rely to the evidence of the prosecution unfairly and failure to consider the defence case for altering the offence to manslaughter. Thus, the act of the court is fatal to the proceedings.
8. **THAT**, I humbly beg that, this court to re-store justice where it was overlooked and quash the decision and set me at liberty with consideration of the period of my staying in the custody.
9. **THAT**, the court may grant any other order(s) or relief(s) sought that may deem fit in the circumstance of my complaint.
10. **THAT**, the application had been supported by accompanied copy of record of the court of appeal and its judgment.

This Executive summary had been prepared, by I, the applicant at Butimba Central Prison in Mwanza and signed by I myself this 09<sup>TH</sup> day of MARCH 2016.



(RTP) .....  
**APPLICANT**

**CERTIFICATION:** certified that this executive summary had been prepared by the applicant himself and endorsed before me on this.....<sup>09<sup>TH</sup></sup> day of MARCH 2016.....

(SGD).....*[Signature]*.....

**FOR: OFFICER IN-CHARGE  
BUTIMBA CENTRAL PRISON  
P.O. BOX 38,  
MWANZA, TANZANIA**

**BUTIMBA MWA NZA**

Lodged at the Registry office of the African Court of Human and Peoples' Rights  
P.O. Box 6274, ARUSHA, TANZANIA. This .....day of ..... 20.....

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