



JUDGMENT SUMMARY

SIJAONA CHACHA MACHERA V. UNITED REPUBLIC OF TANZANIA

APPLICATION NO. 035/2017

JUDGMENT ON MERITS AND REPARATIONS

22 SEPTEMBER 2022

A DECISION OF THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

Arusha, 22 September 2022: The African Court on Human and Peoples' Rights (the Court) delivered a judgment in the case of *Sijaona Chacha Machera v. United Republic of Tanzania*.

Sijaona Chacha Machera (the Applicant) is a national of the United Republic of Tanzania (the Respondent State) and a schoolteacher. At the time of filing the Application, he was serving a prison sentence of thirty (30) years having been convicted of committing an unnatural offence against a twelve (12) year old student. The Applicant alleged that the manner in which the Respondent State's domestic courts determined his case was erroneous both in law and in fact, and as a result, his rights as guaranteed under Articles 1, 2, 3, 4, 5, 6, 7(1) and 9(1) of the African Charter on Human and Peoples' Rights (the Charter) were violated.

On reparations, the Applicant prayed the Court to restore justice where it was overlooked, quash both the conviction and the sentence of thirty (30) years' imprisonment imposed upon him and order his release from prison. He further prayed the Court to grant any other orders that may be appropriate in the circumstances. The Applicant also prayed the Court to order the Respondent State to pay his salary and annual salary increments for the period between 24 May 2008 and the end of his contract, his unpaid basic wages, together with a 25% interest as well as a lump sum of Nine Hundred Million Tanzania Shillings (900,000,000 TZS) for physical pain, psychological trauma, loss of earnings and his family's hardship for his loss of income.

On jurisdiction, the Respondent State objected to the Court's jurisdiction to adjudicate the matter, however, the Court noted that the Respondent State's did not provide details to support the objection. Having conducted an examination of its jurisdiction and noting that nothing on the record indicates otherwise, the Court held that it had material, personal, temporal and territorial jurisdiction to determine the Application.



JUDGMENT SUMMARY

On admissibility, the Respondent State contended that the Application was inadmissible, to which the Court noted that the Respondent State did not provide details to support the objection. Having ascertained the admissibility of the Application in accordance with the conditions set out in Article 6(2) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (Protocol), Article 56 of the Charter as restated in Rule 50(2) of the Rules of Court (Rules), the Court dismissed the Respondent State's objection and held that the Application was admissible.

The Court then considered whether the Respondent State violated Articles 1, 2, 3, 4, 5, 6, 7(1) and 9(1) of the Charter as alleged by the Applicant. The Court further observed that the main contention in the Application centered on Article 7(1) of the Charter, hence, the alleged violation would be addressed first.

The Applicant alleged that the actions or omissions of the domestic courts in the Respondent State resulted in a violation of his right to be heard as guaranteed under Article 7(1) of the Charter on four (4) grounds relating to: i) sentencing the Applicant without a conviction;(ii) admitting unsworn testimonial evidence; (iii) admitting exhibits and testimony illegally; and (iv) failure to assist in the attendance of a defence witness. The Court dismissed the first ground after confirming that the record of proceedings at the trial court demonstrated that the Applicant was lawfully convicted and provided an opportunity to submit his mitigating circumstances prior to sentencing. Hence, the Court held that the Court of Appeal did not violate Article 7(1) of the Charter by failing to take note of the trial court's omission of sentencing the Applicant without a conviction. The Court also dismissed the second and third grounds as the High Court and Court of Appeal (twice) had sufficiently addressed the issues, thus, nothing warranted the Court's intervention. Finally, the Court dismissed the fourth ground having observed that the record of proceedings at the trial court and Court of Appeal demonstrated that the trial court facilitated the Applicant's summoning of witnesses and granted his request to close his defence, hence, there was no violation of Article 7(1).

The Court noted that the Applicant had not made any specific submissions nor provided evidence that the Respondent State violated Articles 1, 2, 3, 4, 5, 6 and 9(1) of the Charter. Accordingly, the Court found that there was no basis to find a violation and held that the Respondent State did not violate the Charter as alleged by the Applicant.

Having found that the Respondent State did not violate any of the Applicant's rights, the Court dismissed the Applicant's prayers for reparations.

The Court ordered that each Party should bear its own costs.



JUDGMENT SUMMARY

Further Information

Further information about this case, including the full text of the decision of the African Court, may be found on the website at: <https://www.african-court.org/cpmt/details-case/0352017>

For any other queries, please contact the Registry by email registrar@african-court.org.

The African Court on Human and Peoples' Rights is a continental court established by African Union Member States to ensure the protection of human and peoples' rights in Africa. The Court has jurisdiction over all cases and disputes submitted to it concerning the interpretation and application of the African Charter on Human and Peoples' Rights and any other relevant human rights instrument ratified by the States concerned. For further information, please consult our website at www.african-court.org.