

AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي		UNIÃO AFRICANA
AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES		

APPLICATION NO. 021/2020

SUDY MASHANA alias KASALA

V

UNITED REPUBLIC OF TANZANIA

CASE SUMMARY

I. THE PARTIES

1. On 29 April 2020, Mr. Sudy Mashana alias Kasala (hereinafter, the Applicant) filed an application at the Court against the United Republic of Tanzania (hereinafter, the Respondent State).

II. SUBJECT OF THE APPLICATION

A. Facts of the matter

2. It emerges from the record that the Applicant and one Gerald Kikamba (who is not a party to this application before the Court) were jointly-accused of killing a young boy aged between thirteen (13) and fifteen (15) years on 24 January 2012 at Muze Village in Sumbawanga District. The young boy was travelling in a vehicle with his mother among other passengers when they were attacked by the Applicant and his co-accused. During the armed robbery, the Applicant and his co-accused shot at the vehicle and one of the bullets landed on the young boy's head, killing him instantly.
3. The Applicant and his co-accused were tried, convicted and sentenced to death by hanging by the High Court of Tanzania sitting at Sumbawanga. The High Court's judgment was delivered on 26 August 2015.
4. In its judgment delivered on 9 October 2017 on the Applicant's and his co-accused's joint appeal, the Court of Appeal sitting at Sumbawanga upheld the Applicant's conviction and sentence but quashed the co-accused's conviction, set aside his sentence and set him at liberty.
5. The Applicant, aggrieved by the decision of the Court of Appeal, applied to the Court of Appeal for a review of its decision on the basis

that it had manifest errors on the face of the record resulting in a miscarriage of justice. On 25 October 2019, the Applicant's application for review was dismissed for lack of merit.

6. The Application was filed before the Court on 29 April 2020.

B. Alleged violations

7. The Applicant claims that in the course of the proceedings at the High Court, his rights were violated in connection with:
 - i. The contradictory evidence by the prosecution witnesses
 - ii. The admission of in-court/dock identification instead of the outcome of the identification parade carried out at the police station to charge the Applicant
 - iii. Lack of production of the gun and bullets to support his conviction
 - iv. The post mortem report tendered by the prosecution, which was not issued by the coroner as prescribed by the Inquest Act
8. The Applicant claims further that the Court of Appeal violated his rights by:
 - i. Referring to the incorrect name of the Applicant in the copy of its judgment, thus the judgment was produced illegally
 - ii. Quashing of the Applicant's co-accused conviction and setting aside of his sentence yet the evidence tendered against them was the same
9. The Applicant alleges that both the High Court and Court of Appeal judgments and proceedings violated his rights to equal protection of the law and equality before the law, and not to be subjected to inhuman or degrading treatment as provided under Articles 3 and 5 of

the African Charter on Human and peoples' Rights (hereinafter, the Charter) respectively. He also alleges that his rights under Article 1 of the Charter have been violated.

III. PRAYERS OF THE APPLICANT

10. The Applicant prays the court to:

- i. Quash the proceedings of the domestic courts against him, order his acquittal and set him free
- ii. Order the Respondent State to compensate him for the violations against him