

19 February 2024



High Court Acquits Widow Sentenced to 22 Years

- Cautioned statement expunged from evidence
- Standard of proof in criminal matters explicated
- Procedure for disposal of exhibits elucidated
- Chain of custody of evidence questioned
- Failure to consider evidence of the accused condemned
- 22 years sentence for possession of game meat quashed

Background and Offence

On 16 February 2024, the High Court of Tanzania (Iringa Sub-Registry) delivered its judgment in the case of Maria Emirio Ngoda vs. Republic, Criminal Appeal No. 37116 of 2023, by acquitting the Appellant, a widow, who was initially convicted and sentenced to 22 years of imprisonment.

The Appellant was arraigned at Iringa District Court (trial Court) where she was charged and convicted of the offence of possession of 12 pieces of meat of impala (game meat) contrary to section 86(1) and (2)(c)(ii) of the Wildlife Conservation Act, 2009 read together with paragraph 14 of the Schedule, section 57(1), and section 60(1) and (2) of the Economic and Organized Crimes Control Act (the Act).

Being aggrieved by the judgment of the trial Court, the Appellant preferred an appeal to the High Court (the Court). The said appeal was premised on 13 different grounds. However, the key grounds relied upon by the Appellant were that the charge against the Appellant was not proved beyond reasonable doubt as required by the law; the cautioned statement of the Appellant was illegally procured; disposal of the exhibit was done contrary to the requirements of the law; chain of custody of evidence did not comply with the law; and the trial Court failed to consider the evidence of the accused.

Judgment of the Court

In its judgment, the Court considered the ground that the prosecution failed to prove its case beyond reasonable doubt being the centerpoint of the Appellant's appeal. In determining this ground, the Court observed that the cautioned statement of the accused, which was relied upon by the trial Court in convicting the Appellant, was procured contrary to the requirements of the law, for the same was taken not within 4 hours from the time the Appellant was arrested. As a result, the Court expunged the cautioned statement from its evidential records. Further, the Court held that the prosecution failed to prove that the meat that the Appellant was allegedly found in possession of was meat of impala.

Regarding procedure for disposal of exhibit and chain of custody of evidence, the Court noted that the inventory form and chain of custody of evidence were done in contravention of the law. Specifically, the Court held that the Appellant was entitled to a right to be heard before the trial Court prior to the order of disposal of the exhibit was issued. Also, the Court found that there was lack of evidence proving the chain of custody of evidence from the investigator to the Government trophy examiner.

Finally, the Court found that the trial court failed to consider the Appellant's evidence that she was not the owner of the bucket with 12 pieces of meat of impala in arriving at its decision. Consequently, the Court concluded that the Appellant was wrongly and illegally convicted and sentenced, hence set the same aside and acquitted the Appellant accordingly.

According to the Act, the offence of being in possession of game meat without a permit attracts a harsh minimum sentence of 20 years, something for the legislature to look at.

To read the Judgment of the Court [click here](#)

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E: info@fbattorneys.co.tz

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FB Attorneys

8th Floor, Amani Place, Ohio Street
P. O. Box 19813
Dar es Salaam, Tanzania
T: +255 22 2135994/5
E: info@fbattorneys.co.tz
W: www.fbattorneys.co.tz

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