

Citation	Parties	Legal Principles Discussed
<p>CRIMINAL APPEAL NO.44/2007 – COURT OF APPEAL TANZANIA AT MBEYA. Coram: LUBUVA, J.A, NSEKELA J.A AND MBAROUK, J.A</p>	<p>MT. 58377 L/CPL MOHAMED S/O AMIRI@RAJABU VS. THE REPUBLIC (Appeal from the decision of the High Court of Tanzania at Songea- Criminal Session No.18 of 2004) Kaganda ,J</p>	<p>Identification as provided in Waziri Amani Vs Republic [1980] TLR 250 at 252, Said Chally Scania Vs republic Criminal appeal no.69 of 2005) unreported and Lusabanyo Siyantemi VR [1980] TLR 275</p>

**IN THE COURT OF APPEAL OF TANZANIA
AT MBEYA**

(CORAM: LUBUVA, J.A., NSEKELA, J.A., And MBAROUK, J.A.)

CRIMINAL APPEAL NO. 44 OF 2007

**MT. 58377 L/CPL MOHAMED S/O AMIRI
@ RAJABUAPPELLANT
VERSUS
THE REPUBLIC RESPONDENT**

**(Appeal from the sentence of the High Court
of Tanzania at Songea)**

(Kaganda, J.)

**dated the 30th day of November, 2006
in
Criminal Sessions Case No. 18 of 2004**

ORDER

LUBUVA, J.A.:

When the appeal was called on for hearing Mr. Mkumbe, learned counsel, for the appellant, addressed the Court on various issues pertaining to the identification of the appellant. Mr. Mwenda, learned State Attorney, for the respondent Republic did not support the conviction. It was his view that, like Mr. Mkumbe, it was highly doubtful that the case against the appellant had been proved to the standard required in a criminal charge.

Upon hearing submissions by both counsel for the appellant and the respondent Republic, we are settled in our minds that it is highly doubtful that the charge of murder against the appellant had been proved. This is particularly so with regard to the identification of the appellant at the scene of crime. On this, we are respectfully in agreement with both Mr. Mkumbe and Mr. Mwenda. Accordingly, the appeal is allowed, conviction quashed and sentence set aside.

It is ordered that the appellant, MT. 58377 L/Cpl. Mohamed s/o Amiri @ Rajabu be released from custody forthwith unless otherwise lawfully held. Reasons to follow.

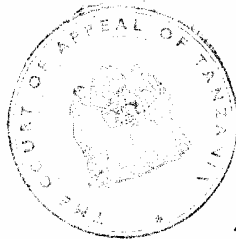
DATED at MBEYA this 20th day of August, 2007.

D.Z. LUBUVA
JUSTICE OF APPEAL

H.R. NSEKELA
JUSTICE OF APPEAL

M.S. MBAROUK
JUSTICE OF APPEAL

I certify that this is a true copy of the original.



(S.M. RUMANYIKA)
DEPUTY REGISTRAR