

THE UNITED REPUBLIC OF TANZANIA
IN THE DISTRICT COURT OF SONGHA DISTRICT
AT SONGHA.

ECONOMIC CASE NO. 14 OF 1996

REPUBLIC

VERSUS

MT.9590 MBZ AHAMAD MINACHI

22 / 04 / 1998:

BEFORE: H.J. MWAUKENJA - SENIOR DISTRICT JUDGE.

' J U D G M E N T '

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The accused person in this case namely Ahmad Minachi stands charged with the offence of unlawful possession of Government trophy contrary to paragraph 14 (d) of the 1st Schedule to and section 59 of the Economic and Organized Crime Control Act 1984 as amended by Act No. 10/89 read together with section 67 (1) (2) (b) of the Wildlife Conservation Act 1974.

It is alleged by the Prosecution that on or about 30/7/96 at Lutukila Village, Songha District accused was found in unlawful possession of Government trophy to wit buffalo meat valued at Tshs. 1,454,000/- the property of Tanzania Government.

He, accused person, has pleaded "Not Guilty" to the charge. 20

During the preliminary hearing under section 192 of the CPA the fact agreed and not indispute is namely the possession of meat.

7 The prosecution evidence from a total of five witnesses is as follows:
On 16/7/96 a woman by the name of Scolastica Kawoga (PW.2) issued to accused a licence ext. "A" to go and hunt one animal known as Mbunju. Then Joseph Nchimbi (PW.5) was approached by the accused person. He then accompanied the accused far into the forest at Ditu. The accused person and PW.5 were in the company of some other persons whose work was to dry and carry the meat of the killed beast from the forest. However the accused person and PW.5 found and killed the animals. That is at first they killed two! Thereafter 30 they killed three! According to PW.5 the animals shot down were all buffaloes.

Haji Yusuph Menge (PW.1) on 30/7/96 arrested the accused person for being in possession of buffalo meat after having been implicated by other persons. PW.1 has told the court that he, the accused person, was in possession of buffalo meat and not Mbunju meat.

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At the Police Station BY085 Det. St. Sgt Aisca (PW.4), after confession, proceeded to record accused's Caution Statement ext. "C". PW.4 has further stated that the recovered meat was disposed of by sale and the proceeds is ext. "B". He asserted that when asked about the meat the accused said six buffaloes were killed by PW.5.

Thomas K. Ngunya (PW.3) has testified to the fact that he was an expert witness who identified the meat in possession of the accused to be that of buffalo and has tendered ext. "B" which disclose the value of the meat to be at the tune sum of Tshs.1,400,000/-.

In his defence on affirmation the accused (D.1) has said that on the material day the animal which was shot down was Mhunju and not buffaloes. D.1 has added that PW.5 is the person who shot it down when he the accused person whistled to attract the people in order to dry and carry the meat away. The accused person called Rashid Said @ Ally (D.2) who stated that he was arrested for being in possession of Mhunju meat together with other persons without licence D.2 has testified in Court Contrary to the Statement he had made at the Police Station ext. D.1!

The issue is whether the animal or animals killed at Pitu by the accused who possessed the licence was either Mhunju or Buffaloes. In considering the evidence and assessing its worth, I have noted that the evidence implicating the accused person with the commission of the offence is largely that of PW.1, PW.2, PW.3, PW.4 and PW.5. I have seen and observed these five witnesses as they gave their evidence and I am fully satisfied that these five witnesses are substantially truthfull and I reject the accused's story that the prosecution witnesses are all telling lies against him. I am accordingly satisfied and find as a fact that the accused person confessed to PW.4 to be owner of the gun and that they were buffaloes which were killed at Pitu and not Mhunju and that PW.1, PW.3 and PW.5 have identified the meat to be that of buffalo.

As if that is not enough when D.2 was asked at the time of his being suspected, he said that the animals shot down at Pitu were Six buffaloes.

From the foregoing evidence I find the inference must be that the accused knew the meat which was carried far away from Pitu was that of buffalo and not of Mhunju.

On the evidence and in answering the issue therefore I am satisfied beyond reasonable doubt that the meat accused possessed through other persons including D.2 who carried it for the accused person was buffalo meat as PW.3 evidence has also corroborated the evidence of PW.5.

