

THE UNITED REPUBLIC OF TANZANIA

JUDICIARY

IN THE DISTRICT COURT OF KILOSA

AT KILOSA

ECONOMY CASE NO. 4/2012

REPUBLIC

VRS

JOHN S/O KIDASI & 3 OTHERS

JUDGEMENT

29/05/2014 and 12/06/2014

The four accused persons in this case one John Kidasi, Abdallah Makiluki , Juma Kiwasile and Letasi Msagaya @ Emmanuel Msagaya stands charged with one count of unlawfully possession of government trophies country to section 86 (1) (2) (c) (ii) and (3) of the wildlife conservation Act no. 5 of 2009 (Cap 283) read together with paragraph 14 (d) of the 1st schedule to and section 57 (1) and 60 (2) of the Economic and organized crime control Act Cap 200 R.E. 2002.

The particulars of the offence are that the four accused on 28th day of February 2002 at Ilakala area in Mikumi national park within Kilosa District in Morogoro Region were found to be in possession of government trophies to wit 96 kilograms of Hippopotamus meat valued at Tshs.1,815,000/=, the property of the government of United Republic of Tanzania without any permit of licence. All the accused persons pleaded "Not guilty to the charge" as a result the prosecution side summoned three witnesses to testify before the court.

Pw1 one John Rashid Mtimanyango, a wildlife officer at Kilosa stated that on 29/02/2012, he was handed three baskets containing meat, in order for him to do a valuation of the trophy he conducted the valuation, where he found the said meat weighed 96 kilograms and it was from hippopotamus animal Pw1 tendered a valuation of trophy certificate which was admitted as exhibit P1.

Pw2, one Ibrahim Ally a park ranger at Mikumi national park, testified that, on 28/02/2012 at 04:00pm, while at Ilakata they saw four people carrying "mtengas", they set a Trap then they managed to arrest them, they noted that they were carrying hippopotamus meat. They asked them if they had a permit but they disputed Pw2 also said the said people had four pangas and one knife. They arrested them then took them to Ruhembe police station.

Pw2 tendered four machetes and one knife which were admitted as exhibit P2.

Pw3, one Stanslaus Ndamba testified to the effect that on 28/02/2012, stated the something as Pw2, additionally he said each of the accused person was found carrying a Tenga full of meat and a panga, except for the 1st accused, whom apart from a panga and a "Tenga" he was also carrying a knife.

This there defence the 1st accused said, he was arrested without any just cause, just because people from TANAPA asked one if he knew people who trespassed in the national park, and he did not know them.

The 2nd accused, said the park rangers found them at their farm, they asked them, if they knew people who asked into the national park, they retired therefore they decided to accused them of the offence at hand.

Before I proceed, in the midst of hearing of the case, the 2nd and 3rd accused persons jumped bail thus the case was heard expert against them.

I have carefully considered the evidence adduced by both the prosecution side and the defence side.

The issue is whether the accused committed the offence they are charged with it is in no dispute that the four accused persons in this case, were found inside Mikumi national park by Pw2 and Pw3.

It is also in no dispute that they were in possession of wildlife meat trophy to wit hippopotamus meat.

It is also in no dispute that they were holding machetes, except that in addition to, the 1st accused was also holding a knife, I am stating to because both Pw2 and Pw3 being the arrested officers were able to testify on this key clearly.

Pw1, in the other had proved to court that the meat the accused were found with was of an hippopotamus animal and it weighed 96 kilograms.

The 1st and 4th accuseds who were the only accused person who defended themselves stated they were arrested without any just cause, as they were digging near the national park. Their defence brings some sort of suspicion, as it builds more on the prosecution case, that they were actually arrested on their offence and not while they were at the national park.

With the above analysis this court finds that, the prosecution side has managed to prove the case beyond any reasonable doubt. And so I find it just to convict all the four accused persons as charged.

It is so ordered.

Sgd. S.B. Fimbo-SRM

12/06/2014

Date: 12/06/2014

Coram: Hon. S.B. Fimbo-SRM

Pros: Insp. Nassoro/Gerald

Accused: 1st and 4th Present

Court Clerck: Mlingwa.

PP: Case is for Judgement

Court: Judgement delivered this 12/06/2014 in the presence of the 1st and 4th accused only.

Sgd. S.B. Fimbo-SRM

12/06/2014

PP: No previous criminal convictions, but I pray for the court to give a determed sentence.

1st Mitigation:

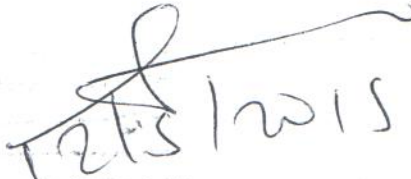
I pray for leniency as I have a family that depends on me, I am also sick, I have H.I.V.

2nd Accused:

I pray for lenience as I have no father.

SENTENCE

I have considered the accused mitigation statement and so hereby sentence them to a fine of Tshs.3,630,000/= or five years imprisonment in default.


T2/S/2015
REGISTRY DISTRICT COURT
KILGSH

Sgd. S.B. Fimbo-SRM
12/06/2014