

IN THE RESIDENT MAGISTRATE'S COURT OF DAR-ES-SALAAM
AT KISUTU

ECONOMIC CASE NO. 27 OF 2017

REPUBLIC

VERSUS

1. HARBINDER SINGH SETHI
2. JAMES BUCHARD RUGEMALILA

ORDER

Date 03/08/2017

Coram: Hon. Shaidi – PRM

For Republic: Mr. Swai & Vitalis PCCB

C.C: Sarah

Accused: Present, Mr. Balomi assisted by Kusarika, James for 1st Accused
Mr. Pascal Kamala for 2nd

Prosecutor: This case is for mention I pray for another date.

Mr. Balomi: The purpose for this case today is for the court to see if prosecution have caused 1st accused to be taken to Hospital at Muhimbili. The court ordered for the 1st time and 2nd time.

On 31st July 2017 the court order was served to prison for necessary action, however todate the 1st accused was not taken to hospital as per court order.

Under the circumstance the health condition of 1st accused is deteriorating bearing in mind that he was not attended with medical care by the specialist as eventually ordered by the court. The 1st accused was arrested

on 17th June 2017 on the way to South Africa for treatment but since then he has not been attended as it was scheduled.

There is no local report from Hospital to tell about his health as the court ordered. So the interaction of the court is very important as the prosecution side are not taking any steps as ordered before. Noncompliance to the court order is not justified, is rendering this court to be toothless. In alternative, we do pray that at least seven days a report from a National Hospital should be filed to the court to show the status of his health (1st accused).

That is all.

Mr. Swai – PCCB: I do agree the court gave the order to take accused to Hospital. However there is no evidence that when 1st accused was arrested was going for medical care to South Africa.

I said and still say that we are not doctors so we should leave this to doctors. The fact that accused wish to go to medical care outside the country is not correct. We have hospitals around and our doctors should be left to do so. The procedure to take 1st accused to Muhimbili is not possible, Muhimbili is a referral Hospital, so he should be taken to Amana and in case they will see the need to refer him to Muhimbili they will do so. I communicated Prison Officer and they arrange to take him to Amana. Alternatively he shall be taken to Lugalo Hospital. I therefore object as well to mention this case after seven days because we will comply with orders.

If he is sick then to bring him after seven days will be a torture to him. He should be treated as per the law and equal to other prison remandees. I so pray and we will make sure he is attended. That is all.

Mr. Balomi: In response to the submission, the prosecutor departed from the court order, when 1st accused complained to the court, the order was to take 1st accused to Muhimbili a national Hospital, there was no question of Amana nor Lugalo. The order was made by the court. Today they came up with a new procedure, there is no even proof that he was taken to Amana or Lugalo. The order was there to be complied with. The health problem was indicated by 1st accused himself that he is due for checkup. He told over his illness and they say within 14 days he will be taken to Hospital. There is no medical report from any Hospital over the checkup. 1st accused this morning said he was not taken to any Hospital. They are doing nothing, they don't respect court order. So the court should intervene to make sure accused get proper medical care. I therefore pray and the court should see the reply by the prosecution as a misleading one. That is all.

Court: The court has already given its order and I can't vacate it, but I hereby order Prosecution Side/Prison Officer to adhere to it. However, I wish to insist that I ordered for medical care within the country not outside the country.

Sgd: Hon. Shaidi – PRM

03/08/2017

Order: (1) Mention on 17/08/2017
(2) AFRIC

Sgd: Hon. Shaidi – PRM

03/08/2017

MAGISTRATES COURT
KISUTU DAR ES SALAAM

I hereby certify that the foregoing is