



**Chanzi v Republic (Criminal Appeal E006 of 2023)
[2023] KEHC 27050 (KLR) (20 December 2023) (Judgment)**

Neutral citation: [2023] KEHC 27050 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT BUSIA
CRIMINAL APPEAL E006 OF 2023
WM MUSYOKA, J
DECEMBER 20, 2023**

BETWEEN

RICHARD PAUL CHANZI APPELLANT

AND

REPUBLIC RESPONDENT

(Appeal from conviction and sentence by Hon. Mrs. Lucy Ambasi, Chief Magistrate, CM, in Busia CMCCRC No. 122 of 2022, of 13th December 2022)

JUDGMENT

1. The appeal herein was lodged by Richard Paul Chanzi, through his Advocates, Balongo & Company. The memorandum of appeal, dated January 19, 2023, it should have been a petition of appeal, indicates that the appeal arises from a conviction and sentence in Busia CMCSO No. 122 of 2022, relating to proceedings conducted on December 13, 2022.
2. Trial records in Busia CMCSO No. E122 of 2022 were availed. I have perused them. They relate to a person known as Pontian Richard, and not Richard Paul Chanzi. I have scrupulously gone through the said record, to confirm whether there is any connection between Pontian Richard and Richard Paul Chanzi, or any reference to Richard Paul Chanzi in those proceedings, and I have found none. There is nothing in there indicating that Richard Paul Chanzi and Pontian Richard are, or were, one and the same person.
3. The discrepancy is so glaring, as the proceedings herein and those in Busia CMCSO No. E122 of 2022 refer to 2 different individuals, that I expected the appellant, through his Advocates, to address it in his submissions. He did not. On the face of it, the 2 proceedings are unrelated. I cannot also tell whether the proceedings in Busia CMCSO No. 122 of 2022, cited in the memorandum of appeal, and Busia CMCSO No. E122 of 2022, the subject of the trial court records made available, refer to the same proceedings.



4. As the proceedings in Busia CMCSO No. E122 of 2022, being the only record that was placed before me, did not relate to the appellant herein, Richard Paul Chanzi, but to Pontian Richard, he, Richard Paul Chanzi, cannot possibly file an appeal against decisions made in proceedings that did not relate to him. In legal proceedings, the court operates from a point of certainty, not speculation or conjecture or assumptions or presumptions, so far as identities of the parties are concerned.
5. Consequently, I find no basis upon which I can determine the appeal herein. The same is misconceived and incurably defective, and I hereby dismiss it.

DELIVERED, DATED AND SIGNED IN OPEN COURT AT BUSIA THIS 20TH DAY OF DECEMBER 2023

W MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant.

Advocates

Mr. Jumba, instructed by Balongo & Company, Advocates for the appellant.

Ms. Chepkonga, instructed by the Director of Public Prosecutions, for the respondent.

