Makan & 5 others v Republic (Criminal Appeal 42 of 2015)
[2020] KECA 955 (KLR) (31 January 2020) (Judgment)

Neutral citation: [2020] KECA 955 (KLR)

REPUBLIC OF KENYA

IN THE COURT OF APPEAL AT KISUMU

CRIMINAL APPEAL 42 OF 2015

W OUKO, F SICHALE & MK KOOME, JJA

JANUARY 31, 2020

BETWEEN

HARUN LANGAT MAKAN ..... 1ST APPELLANT

SIMON CHEGE ALIAS SIKOWO ..... 2ND APPELLANT

JAMES SOS CHEMOSIT ALIAS JESHI ..... 3RD APPELLANT

CLEOPHAS LELBUS AINEA ALIAS JADONGO ..... 4TH APPELLANT

DAVIS KAE CHEMOSIT ..... 5TH APPELLANT

FELIX NGORIA ALIAS OKINDA ..... 6TH APPELLANT

AND

REPUBLIC ..... RESPONDENT

JUDGMENT

1. A grisly murder of two people, Moses Ndiwa Nangendo (1st deceased) and Benson Wekesa Ekwara (2nd deceased) occurred on 27th October 2007 at Kamuneru Village, Mount Elgon District. As a result the six appellants were jointly charged with the offence of murder contrary to section 203 as read with section 204 of the *Penal Code* before the High Court in Bungoma. They were tried, and upon being found guilty, were convicted and sentenced to suffer death. They have appealed against both the conviction and sentence.

2. It is necessary to state the background against which this offence took place as indeed it is a matter of public importance worthy of judicial notice. During the material period when this offence was committed, there was a general state of insecurity within the Mt Elgon area that was exacerbated by the emergence of a rug tag kind of army known as Sabaot Land Defence Force (SLDF). There was also ethnic tension and post-election violence - see Report of the Truth, Justice and Reconciliation Commission (TJRC Kenya) Vol 1V 2013. The facts of how the deaths of the two deceased persons

were executed by a bloodletting mob who violently beheaded them in the presence of their loved ones and forced some of the family members to carry the decapitated heads of the victims as the gang roamed around terrorizing people is heart wrenching.

3. The evidence that linked the appellants to the heinous crime was given by Rose Chepkemoi Masai Ndiwa (PW6) the widow of the 1st deceased. Apparently, according to the police other witnesses declined to come forth although their details were not provided. PW6 told the trial court how on the material day at about 10.00pm, she and her late husband (1st deceased) had retired to sleep after putting off a tin lamp. They were however rudely awoken by a gang of men demanding that they open the door and pretending to be police officers from Kapsokwony Police Station. PW6 and her husband tried to hide inside the house but they were unsuccessful as the attackers broke the widow and pointed a rifle at them. Her husband decided to open the door upon which the attackers grabbed him, beat him with rungus and dragged him out of the house. PW6 was also dragged outside where she saw Benson Wekesa (2nd deceased) and another man, one 'Simatwa', being held captive by another group of men. The three men who were held captives were then marched towards 2nd deceased house which was about 30 meters away. That is where the two deceased persons were beheaded and their bodies left in a shamba. PW6 and Simatwa were ordered to carry the decapitated heads but after a while PW6 found it unbearable to continue carrying her husband's head and upon pleading with the attackers she was given some chickens which had been stolen from the 2nd deceased's house to carry.

4. PW6 went on to state that after she was forced to follow the gang for almost four (4) hours, the 6th appellant Felix Ngoria alias Okinda told her to go back home. When she returned home, she reported the attack to her brother-in-law and mother-in-law. In her statement, she identified the 3rd appellant James Chemosit, who she only knew as "Jeshi" but said he was a long-time neighbour of about thirteen (13) years; the 1st appellant Harun Langat; 2nd appellant Simon Chege alias Sikowo; 4th appellant Cleophas Lelbus Ainea alias Jadongo; 5th appellant Davis Chemosit, and 6th appellant Felix Ngoria alias Okinda. She further identified the 4th and 6th appellants as her in-laws. She stated that upon filing a formal statement at Kapsokwony Police Station, she was later called to attend an identification parade where she positively identified the 3rd appellant James Chemosit alias Jeshi.

5. Peter Chesutek Nangeno (PW2) is a brother to the 1st deceased, he however did not witness the murders, but went to the scene of the attack the next morning and saw his brother's headless bodies with that of the 2nd deceased. The bodies were later collected by the police who took them to Webuye Hospital Mortuary. His narrative regarding the identities of the attackers was basically what PW2 said he was told by PW6 who told him that she had recognized the attackers who were their neighbours and relatives. He went on to state how he knew each of the appellants; 3rd appellant James Chemosit alias Jeshi was known to him since childhood; 5th appellant Davis Chemosit was his neighbour for some 13 years; the 2nd appellant Simon Chege was a neighbour; the 4th appellant Jadongo had attended the same school with him 31 years ago and the 6th appellant Okinda was his cousin.

6. Similarly Beatrice Nangendo (PW3) the mother of the 1st deceased person was informed on the morning of 28th October, 2008 by one of her sons that the deceased had been killed by raiders. This was confirmed by PW6 who narrated to her the painful events of the previous evening. She also witnessed the headless body of her son before it was taken to the mortuary. The other evidence which perhaps was in regard to the antecedents relating to the 2nd appellant was given by Gladys Chepter Naibei (PW4). She told the court that on the night of 26th (perhaps 27th) October, 2007 two men broke into her house and raped her. She identified the 2nd appellant whom she referred to as "Rasto". PW4 who was at the time 5 months pregnant was raped from 9.00pm to 1.00 am and in the process of the ordeal, she lost consciousness and woke up at 5.00am while in hospital.

7. Evalyn Chemutai Ndiema (PW1), wife of the 2nd deceased, testified how on the day of the attack, due to the state of insecurity in the area, she opted to spend the night at the police post together with her eight (8) children while her husband, the 2nd deceased remained in their home at Kamuneru. She was shocked to find her husband's body in the morning bound with ropes and with slash wounds. The body was later collected by police was taken to Webuye District Hospital for post mortem.

8. The matter was investigated by Sgt. Ethron Mukenye (PW8) who received the report about the attack on the same night but apparently could not visit the scene until the next day due to insecurity. Together with another officer, Inspector Otiende, they interviewed people at the scene of crime but it was only PW6 who was willing to give an eye-witness account. PW6 gave some of the nicknames and also some real names of the attackers as Wycliffe Makaa, 'Okinda', Harun, 'Jadongo' and 'Jeshi'. The police took the bodies to the mortuary at Webuye Hospital and a postmortem was conducted on the 2nd deceased on 1st November 2007and on 1st deceased on 2nd November 2007. PW8 is the one who produced the postmortem report; an identification parade report for the 3rd appellant who was arrested on 10th December 2007 by police on patrol. PW6 had identified the 3rd appellant during the parade and based on the identification, he was also charged alongside others.

9. Upon considering the prosecution's case, the trial court found all the appellants had a case to answer. When put on their defense, they each denied committing the offense and put forward various alibis for the night the murders were committed. In his defence the 2nd appellant Simon Chege referred to the statement by one Gladys Chepter Naibei (PW4) a resident of Kamuneru village who testified how on 26th (perhaps 27th) October 2007, the 2nd accused had forced his way into her house together with an accomplice and proceeded to rape her. He claimed that PW4 had not identified him as the assailant and if that be the case he could not at the same time have been at the scene of crime. This is the verbatim statement by PW4 where she testified that;

> " ...The door was forced open and two men came in. One of them was Sigor Rasto whom I know. He is the 2nd accused in the dock. I did not identify the 2nd man. Rasto had a knife, panga and a gun in his hands....The 2nd accused knocked me down on my bed and started raping me. He raped me from 9.00pm to 1.00am. It is only the 2nd accused who raped me..."

10. PW6 was the only eyewitness to the crime; the appellants in their detailed submissions challenged all the other evidence as mere hearsay that was inadmissible or which did not aid the prosecution to proof the case to the required standard. They argued that the evidence of PW6 was contradictory and unreliable and furthermore the alleged attack happened at night where there was no reliable source of light. The lighting by the moon or tin lamp was also not subjected to any test as per the principles set out in the case of R v Turnbull [1973] ALL ER 549 which was cited to buttress the argument that an accused must not be convicted solely on the identification evidence of a single eye witness.

11. In the judgment dated 12th February, 2015, the Judge identified the issues for determination as;

    (a) Whether the prosecution had proved its case beyond reasonable doubt;

    (b) Whether the accused persons actually murdered the deceased persons;

    (c) Whether the identification of the accused persons by PW6 was sufficient and conclusive that the accused persons committed the crime; and

    (d) Whether the identification parade conducted at Kapsokwony was null.

The Judge obviously conscious that the prosecution's case only hinged on the veracity of the evidence by PW6, found her evidence cogent, truthful and accordingly found the appellants guilty as charged and on the premise made the following conclusion:-

> "The evidence connecting all the accused persons to the incident revolved around the eye witness PW6. She confirmed to this court that although initially their house was in darkeness, as they had already put off the tin lamp, she was ordered by the attackers to put on the lamp- which she did. She got out of the house, and could clearly see the individuals who had besieged them because there was moonlight. These were people she knew as her neighbours and was able to give their names, although they disowned the nicknames. The time she spent with the attackers was not just a fleeting moment, she walked with them, watched them behead the two men, and walked further towards the mountain. Infact all of them. I find that the prosecution has adequately proved this case beyond reasonable doubt and I return a finding of Guilty in respect of each accused."

12. All the appellants were convicted and sentenced to suffer death. Being aggrieved with the conviction and sentence, the 1st 3rd, 4th, and 5th appellants filed joint petitions of appeal dated 24th July 2019. Their memorandum of appeal and supplementary memorandums raised eight (8) grounds of appeal which can be summarized as follows;

    (i) Plea was not properly taken during the trial;

    (ii) The trial court erred by convicting on the testimony of a single identifying witness;

    (iii) The identification parade report was not produced by the author;

    (iv) The prosecution did meet the burden of proof for the offense of murder;

    (v) The trial court did not consider the defense of alibi;

    (vi) The judgment did not comply with the provisions of section 169 of the *Criminal Procedure Code*;

    (vii) The sentence of death be overturned to comply with the Supreme Court's decision in the Muruatetu Case; and

    (viii) The trial judge failed to record the evidence contrary to section 200(4) of the *Criminal Procedure Code*.

13. Similarly, the 2nd and 6th appellants filed a memorandum of appeal dated 14th may 2019 in which they raised seven (7) grounds that can be paraphrased and summarized as follows;

    (i) The prosecution failed to prove their case beyond a reasonable doubt;

    (ii) The judgment failed to comply with the provisions of section 169(1) 7 (2) of the *Criminal Procedure Code*;

    (iii) The sentence violated provisions of Article 26 of *the constitution*;

    (iv) The testimony of prosecution witnesses was contradictory;

    (v) The prosecution failed to call the witness to testify as to cause of death;

    (vi) There was no direct evidence linking the appellant to the offense; and

    (viii) The trial was improperly conducted.

14. During the hearing of the appeal, the 1st, 3rd, 4th& 5th respondents were represented by Mr. Mshidi who relied on the skeletal submissions dated 24thJuly 2019. The appellants urged us to take judicial notice of the state of violence that existed in the Mt. Elgon region around that time following the 2007/08 post-election violence; that the appellants were as much victims of the clashes as the complainants and the prosecution had failed to show that they were the raiders who terrorized the area. On the issue of improper trial, the appellants referred the court to the cases of Adan v Republic [1973] EA 45, Ombena v R [1981] eKLR, and Rogers WafulaBaraza v R [2019] eKLR, to support their assertion that the trial judge erred by failing to take pleas for each accused person requiring each of them to answer to the charge of murder separately and to record the pleas of each appellant separately.

15. On the issue of identification, counsel for the appellants contend that the testimony of the eyewitness (PW6) was not credible as she testified that on the night of the attack, she was held captive together with the wife of the 2nd deceased (PW1), who in her own testimony stated that she spent the night at the police station with her children. To buttress their argument, the appellants cited the cases of John Murithii Nyaga v Republic [2014] eKLR, R v Turnbull & others [1973 ALL ER 549, and Cleophas Otieno Wamunga Republic[1989] eKLR where courts are warned against convicting in the face of insufficient evidence of identification by a single eyewitness.

16. The 2nd and 6th appellants were represented by Mr. Bw'onchiri who relied on the written submissions dated 14th may 2019 and associated himself with those made by counsel for the other appellants. On the question of evidence linking the appellants to the crime of murder, counsel argued that the prosecution's evidence was inconsistent and the trial court had failed to thoroughly inquire into the quality of light by which the eyewitness was able to recognize the assailants. Reference was made to the case of Paul Etole& another v Republic [2001] eKLR, where this Court found there was a serious misdirection by the two courts below for failing to thoroughly test and analyze the evidence of identification by recognition; that it was essential for the trial court to inquire into the nature and intensity of light source which go to the quality of the identification evidence. On the issue of procedural flaws, counsel contended that when the charges were consolidated and trial began afresh, the provisions of section 200(3) of the *Criminal Procedure Code* were not observed on the appellant's right to have previous witnesses re-summoned and reheard. Counsel concluded by citing the case of John Bell Kinengeni v Republic [2015] eKLR where it was held that the failure of the succeeding judge to inform the appellant of his right under section 200(3) vitiated the trial as it was a mandatory requirement.

17. On the part of the state, Mr. Kakoi, Principal Prosecutions Counsel, relied on his submissions dated 17th July, 2019 wherein the respondent conceded to the appeal by the 6th appellant on ground that there was no evidence the 6th appellant had common intention with the rest of the appellants to murder the deceased persons. Regarding the conviction for the charge of murder in regard to the other appellants, counsel for the respondent stated that the element of mens rea as described by section 206 of the *Penal Code* had been established by the post mortem report which indicated that the two deceased had been killed by decapitation.

18. On the issue of identification, counsel for the respondent referred to the evidence of PW6 who testified that she knew all the appellants by name as they were either her neighbours or related to her, or both. Regarding the common intention to murder, the prosecution relied fully on PW6's testimony that the 1st, 2nd, 3rd, 4th and 5th appellants actively participated in the murders; and that the 6th appellant did not enter the house nor chase down the 1st deceased. The respondent urged us to uphold the conviction and sentence in regard to the 1st to the 5th appellants due to the serious nature of the charges and allow the appeal in regard to the 6th appellant.

19. This being a first appeal, this Court is obliged to re-evaluate the evidence on record to determine if the trial court's decision was based on evidence and is legally sound. On matters of fact, as an appellate court we have to bear in mind the caution that having heard and seen the witnesses testify, the trial court was better placed to assess their demeanor. We should therefore be slow to reverse the trial judge's finding of fact unless it is supported by the evidence on record. (See Okeno v Republic [1972] EA 32 and Mwangi v Republic [2002] 2 KLR 28). Having reviewed the evidence on record, as summarized in the preceding paragraphs, we find the main issue for our consideration is whether the appellants participated with others in joint unlawful killing of the two deceased persons; and secondly, whether the evidence of identification/recognition was sound to justify a conviction.

20. We note from the testimony of PW6 that was recorded on 23rd November, 2010 before Muchemi, J, that there were many assailants in the gang of about 200. This is what she said in her own words;-'it was not possible to know who was a thug or who had been captured'. In these circumstances, the prosecution had the burden of proving which of the appellants had a common intention in the unlawful enterprise, those who having intentionally aided or abetted the commission of the unlawful act and those who had been captured and forced to accompany the raiders. The appellants challenged the conviction on the basis that the prosecution had failed to prove that they were part of the gang that was said to have perpetrated the killings; in other words, that they had a common intention with the raiders. Section 21 of the *Penal Code* defines common intention as arising;

> "When two or more persons form a common intention to prosecute an unlawful purpose in conjunction with one another, and in the prosecution of such purpose an offense is committed of such a nature that its commission was a probable consequence of the prosecution of such purpose, each of them is deemed to have committed the offence."

21. The doctrine of common intention has been articulated by this Court on several occasions where it has held that if several persons set out with a common intention to commit an unlawful act and one of them in the execution of that common intention kills a person, an offence of murder will have been committed by all who are present and shared in the common intention whether or not they delivered the fatal blow provided the death was caused by the act of someone of the party in the course of the common object - (see Solomon Mungai v Republic [1965] EA 363, and Njoroge v Republic [1983] KLR 197). In Solomon Mungai & others (supra) it was held that if the evidence supports the inference that violence of any degree has been used in prosecuting a certain design incidentally resulting in death, and if the offence charged was a probable consequence of the use of that violence, then all sharing in the design are murderers.

22. In the circumstances of this appeal, there was need for the trial court to consider the challenging situation that prevailed at the time, and interrogated the evidence of PW6 regarding each of the appellant to rule out a possibility of a mistaken identity. As stated in the opening paragraph there was a state of insecurity in the Mt. Elgon region at the time which was characterized by spontaneous outbreak of multi-handed violence. This was perpetrated by more than 200 raiders. Even the police said they could not visit the scene on the day the offence took place due to insecurity and to make matters worse, no serious investigations were undertaken save for some perfunctorily identification parade which was done in respect of the 3rd appellant and for which even the officer who did it did not attend court to give evidence.

23. Granted that the offences were committed in this kind of settings, and in the absence of detailed investigations, we have to examine the evidence of PW6 carefully so as to rule out the possibility that the appellants were not victims of capture or victims of mistaken identity but that they were the perpetrators of the heinous offences. It is also our duty as the first appellant to re-examine entire

evidence and the judgment of the trial court. In this regard, we have gone through the testimony of PW6 especially at page 40 of the record of appeal which exposes in detail what each of the accused person did in execution of the two murders. This is what she said;-

> " The men who came to my house were about 200 in number. I identified one JESHI who is the 3rd accused. I do not know his official name, he is a neighbor across the river. I also identified one 'Sikor Naru [Sikowo] who is the 2nd accused, the first accused is called Harun. One 'Jedong' [Jadongo] who is the 4th accused was also present. 'Jogginder' who is the 5th accused and Chemosit the 6th accused. The 1st accused is the one who chased the deceased. He was armed with a gun and a panga. The 2nd accused had a rungu and a panga. Mohamed who is now deceased is the one who cut the neck of the deceased. Mohamed was killed by the army when they came to Mt Elgon...."

On cross examination she went on to state;

> " I did not see 2nd, 3rd 4th, 5th and 6th accused kill my husband. I saw the 1st accused hold the head of my husband. The 4th and 3rd accused chased my husband...."

There was no other eyewitnesses and what PW2 narrated is what he was told by PW6 and this is what he said;

> " PW6 told me that Mohamed killed the deceased. She also mentioned Harun, Felix, Chemosit, Sikor, Jedong who chased the deceased. I know the 3rd accused. He is called James Chemosit. He was also mentioned"
>
> Just like the trial court we are cognisant of the test to be applied when conviction is based on a single eye witness. See the case of Charles O. Maitanyi v Republic [1986] KLR 198, this Court held that:-
>
> " Although it is trite law that a fact may be proved by the testimony of a single witness, this does not lessen the need for testing with the greatest care the evidence of a single witness respecting identification"

24. The learned trial Judge believed the evidence of PW6 because she said she knew the attackers, she named them through recognition either as relatives, neighbors or through the identification parade. Although the identification may not have been necessary in a scenario of recognition, the fact that PW6 had given nicknames of some of the appellants especially the 3rd appellant, we think it was necessary to reaffirm and test her recollection. PW6 repeated the names the attackers to other witnesses who testified including in her first statement to the police. In addition to recognition, she said she identified the attackers with the aid of a tin lamp which the attackers ordered her to light, there was also moonlight as she was with the attackers for close to 4 hours. PW6 was persistent in her narration which we have further examined; she gave a detailed account of the role played by each of the appellants.

25. PW6 testified that Mohamed hacked the deceased to death as other attackers watched. The 1st appellant is the one who chased the 1st deceased while armed with a gun and a panga. While being cross-examined by counsel for the appellants PW6 this is what she said in a pertinent portion of her evidence at page 41;-

> " Outside the house there was moonlight. I could see all what was happening. Inside the house, torches were used because it was dark. I was then ordered to light the lamp which I did. It is only me who returned home on reaching the river. I did not see 2nd 3rd, 4th, 5th and 6th

accused kill my husband. The 4th and 3rd accused chased my husband. I am the only member of the family who saw the deceased being killed. I identified Jeshi (1st accused) at the parade. I knew him before the incident"

26. The 1st appellant chased the 1st deceased after he had freed himself and he had attempted to run away. The 1st appellant was armed with a gun and a panga, the 2nd 3rd and 4th appellants were armed with a rungu and a pangas and they chased the 1st deceased before he was beheaded by Mohamed. We agree with the learned Judge that these four appellants were properly identified and even the specific role that they undertook to execute the two murders. They intentionally assisted or encouraged Mohamed to kill the two deceased persons by beheading.

27. We have also considered the submissions by counsel for the appellants that PW6's evidence was weak due to inconsistencies when she testified that she was held captive with (PW1) the wife of the 2nd deceased person who clearly testified that she had taken shelter at the police station on the material night. It is trite that slight variations do occur from accounts of witnesses. In this case we find this variation was not material to affect the substance of the evidence of identification of the perpetrators. See the case of Thoya Kitsao alias Katiba v R [2015] eKLR where this Court considered the same issue and stated:-

> " Indeed variations must be expected in evidence that is true. It is said that sometimes evidence without the slightest variation may be good indicator of coached witnesses" In Dickson Elia Nsamba Shapwata & Another v The Republic CR. APP No. 92 Of 2007, the Court of Appeal of Tanzania stated as follows regarding discrepancies in evidence which we respectfully endorse:-
>
> 'In evaluating discrepancies, contradictions and omissions, it is undesirable for court to pick out sentences and consider them in isolation from the rest of the statements. The court has to decide whether inconsistencies and contradictions are minor, or whether they go to the root of the matter."

We are therefore not persuaded that that small variance in evidence materially affected the evidence of PW6 in regard to key aspects regarding identification.

28. However the specific role that was played by the 5th appellant is not stated in evidence of PW6, this is she said which seems to exonerate or defend the 5th appellant;

> " I saw the 5th accused standing outside our house armed with a rungu. He did not beat my husband or agitate that he be assaulted. The 5th accused is my brother-in-law. I gave the police the name of my in-law the 5th accused. He is the one who ordered me to return home. I have not mentioned names of other people"

Going by this scenario we are inclined to allow the benefit of doubt in the case of the 5th appellant. There is a likelihood that he may or may not have been a participant of the execution of the two murders but he was a victim of capture. As s regards the 6th appellant we agree the appeal against him was rightly conceded by the state that it is more probable that he was present at the scene having been forced by the gang to follow them. Having found as we have that the prosecution proved the case against the 1st, 2nd, 3rd and 4th appellants, their appeals therefore fail, and we uphold their convictions.

29. We however have to address the issue of sentence in view of the emerging jurisprudence from the Supreme Court's decision in the case of in Francis Karioko Muruatetu & Another v Republic – Petition No. 15 of 2015 consolidated with Petition No. 16 of 2015 (Muruatetu's case). The appellants

were sentenced to death for the offence of murder contrary to Section 203 as read with Section 204 of the *Penal Code*. Section 204 of the *Penal Code* provides:

> " Any person convicted for murder shall be sentenced to death."

30. After their appeals were dismissed by the Court of Appeal, they appealed to the Supreme Court. The main issue canvassed in the appeal was whether or not the mandatory death penalty is unconstitutional. The Supreme Court said at paragraph 48:

> " Section 204 of the *Penal Code* deprives the Court of the use of judicial discretion in a matter of life and death. Such law can only be regarded as harsh, unjust and unfair. The mandatory nature deprives the Courts of their legitimate jurisdiction to exercise discretion not to impose the death sentence in an appropriate case. Where a Court listens to mitigating circumstances but has, nevertheless, to impose a set sentence, the sentence imposed fails to conform to the tenets of fair trial that accrue to accused persons under Article 25 of *the Constitution*; an absolute right"

The appellant offered their mitigation which was considered by the court before sentencing them. In pronouncing the sentences this is what the Judge stated;-

> " ... they were found guilty of beheading two human beings. In my view they do not deserve any mercy. They must suffer the most severe punishment available under the law and that is none other than the death penalty"

(31) We have no reason to fault the trial court in making the above conclusion, the seriousness of the offences committed here in cannot be understated. Death penalty has not been abolished under *the Constitution*, it is the mandatory nature that was declared unconstitutional. Accordingly the appeals by the 1st, 2nd, 3rd and 4th appellants are dismissed with the result that the judgment of the High court is affirmed. In regard to the 5th and 6th appellants their appeals are allowed with the result that they are set free forthwith unless otherwise lawfully held.

DATED AND DELIVERED AT KISUMU THIS 31ST DAY OF JANUARY, 2020.

W. OUKO, (P)

.....

JUDGE OF APPEAL

M. K. KOOME

.....

JUDGE OF APPEAL

F. SICHALE

.....

JUDGE OF APPEAL

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

DEPUTY REGISTRAR