

IN THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS  
AT ARUSHA – TANZANIA  
APPLICATION NO.....016..... OF 2016

C/F IN THE COURT OF APPEAL OF TANZANIA AT BUKOBA  
CRIMINAL APPEAL NO.225 OF 2014

HIGH COURT OF TANZANIA AT BUKOBA  
HC. CRIMINAL APPEAL NO.23 OF 2011

ORIGINAL CRIMINAL CASE NO. 42 OF 2010  
DISTRICT COURT OF BUKOBA

BETWEEN

DIOCLES S/O WILLIAM ..... APPLICANT

VERSUS

THE UNITED REPUBLIC OF TANZANIA } ..... RESPONDENT  
ATTORNEY GENERAL }

EXECUTIVE SUMMARY

[Made under the PRACTICE DIRECTION; to section 17 and Rule 19 of the RULES of  
the court]

1. **THAT**, the only evidence implicated the applicant to the charge was that of direct evidence from PW4 and circumstantial evidence from PW1, PW2, PW3 and PW5.
2. **THAT**, the direct evidence (PW4) which culminated into the conviction of the applicant was that from the victim (PW4). It was alleged that she was at home playing with PW5, in the process; the applicant appeared and took the victim to accompany him to the applicant's house. On the way the applicant raped the (PW4) the victim.

3. **THAT**, the circumstantial evidence as led by PW1, 2, 3 and PW5 was rather a hear say evidence.
4. **THAT**, the evidence of PW3 (doctor) as corroboration was not attested scientifically so as to be cogent and reliable.
5. **THAT**, the applicant had not enjoyed a fair trial when the trial court failed to summon the applicant's intended witnesses; refer to section 231(4) of the criminal procedure Act Cap20. R.E. 2002. To be noted, the applicant was not bailed throughout the trial up to his conviction.
6. **THAT**, the sexual offence special provision Act (SOSPA) under which the applicant was convicted of; are couched in contravention to constitution of the united Republic of Tanzania 1977 to Article 13(1),(2),(5) and the CHARTER of this court to Article 2 and 3(1),(2).
7. **THAT**, the African court on Human and Peoples' Rights may be pleased to re-examine the entire evidence on record plus to intervene the violations of the constitution of the United Republic of Tanzania 1977, the African CHARTER as shown supra.
8. **THAT**, the African court on Human and Peoples' Rights has to restore justice by quashing both conviction and sentence imposed by the courts of the Respondent states and let the applicant at liberty.
9. **THAT**, this court may grant any other order(s), or Relief(s) that may deem fit in the circumstance of this application.

**VERIFICATION:** I hereby verify that what is stated herein above in paragraph 1 – 9 is true to the best of my knowledge and belief.

Verified at Mwanza this 16...day of ...FEBRUARY.. 2016.



(RTP) .....  
**APPLICANT**

**CERTIFICATE:** Hereby certified that, the executive summary has been prepared and signed by the above named applicant and endorsed before me this 16<sup>th</sup> day of FEBRUARY 2016.

(SGD)..........

OI/C BUTIMBA CENTRAL PRISON

P.O. BOX 38,

MWANZA

**K.M. MKUU WA CEREZA  
BUTIMBA MW NZA**

Lodged at the Registry office of the African Court on Human and Peoples' Rights at ARUSHA – Tanzania, this.....day of ..... 2016.

(SGD).....

REGISTRAR OF THE AFRICAN COURT

ON HUMAN AND PEOPLES' RIGHTS

ARUSHA – TANZANIA.