

IN THE HIGH COURT OF ZANZIBAR

HELD AT TUNGUU

CRIMINAL CASE NO. 85 OF 2022

DIRECTOR OF PUBLIC PROSECUTION

v.

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|---|-------------------------------|
| 1. KASSIM IDRIS SA MUSSA | 1st Accused |
| 2. ABDUL-LATIF ABDALLA WAZIRI @ KIZITO | 2nd Accused |
| 3. AISHA YUSSUF SAID | 3rd Accused |
| 4. FATMA KOMBO MOH'D | 4th Accused |
| 5. ASIA ABDISALAMI HUSSEIN | 5th Accused |

RULING

Dated: 10th April, 2025

S. HASSAN (J)

The accused persons herein **KASSIM IDRIS SA MUSSA, ABDUL-LATIF ABDALLA WAZIRI @ KIZITO, FATMA KOMBO MOH'D, AISHA YUSSUF SAID, and ASIA ABDISALAMI HUSSEIN**, were all together arraigned on the **5th October, 2022** for the total of **164 Counts** named herein, each accused facing his or her own count, whereby after the information was read out, each accused denied the charge facing him or her and the plea of not guilty was entered by the court for all five accused persons in each charge. The following are the Counts facing the accused persons herein:

1ST Count for 1ST Accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

2ND Count for 1ST Accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

3RD count for 1ST accused misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

4th count for 1ST accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

5th count for 1ST accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

6th count for 1ST accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

7th count for 1ST accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

8th count for 1ST accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

9th count for 1ST accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

10th count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

11th count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of the zanzibar anti-corruption and economic crimes act no. 1 of 2012, the law of zanzibar.

12th count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of the zanzibar anti-corruption and economic crimes act no. 1 of 2012, the law of zanzibar.

13th count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of the zanzibar anti-corruption and economic crimes act no. 1 of 2012, the law of zanzibar.

14th count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

15th count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

16th count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

17th count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

18th count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of the zanzibar anti-corruption and economic crimes act no. 1 of 2012, the law of zanzibar.

19th count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

20th count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of the zanzibar anti-corruption and economic crimes act no. 1 of 2012, the law of zanzibar.

21st count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

22nd count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

23rd count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

24th count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

25th count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

26th count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

27th count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

28th count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

29th count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

30th count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

31st count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

32nd count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

33rd count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

34th count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

35th count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

36th count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

37th count for 1st accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

38th count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

39th count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

40th count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

41st count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

42nd count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

43rd count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

44th count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

45th count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

46th count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

47th count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

48th count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

49th count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

50th count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

51st count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

52nd count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

53rd count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

54th count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

55th count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

56th count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

57th count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

58th count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

59th count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

60th count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

61st count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

62nd count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

63rd count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

64th count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

65th count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

66th count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

67th count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

68th count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

69th count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

70th count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

71st count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

72nd count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

73^d count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

74th count for 1st accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

75th count for 1st accused: abuse of office, contrary to section 53(1) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

76th count for 1st accused: abuse of office, contrary to section 53(1) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

77th count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

78th count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

79th count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

80th count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

81st count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

82nd count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

83rd count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

84th count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

85th count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

86th count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

87th count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

88th count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

89th count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

90th count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

91st count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

92nd count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

93rd count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

94th count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

95th count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

96th count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

97th count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

98th count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

99th count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

100th count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

101st count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

102nd count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

103rd count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

104th count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

105th count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

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108th count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

109th count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

110th count for 2nd accused: misappropriation of asset, contrary to section 43(1), 60(1), (2), (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

111th count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

112th count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

113th count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

114th count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

115th count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

116th count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

117th count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

118th count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

119th count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

120th count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

121st count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

122nd count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

123rd count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

124th count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

125th count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

126th count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

127th count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

128th count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

129th count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

130th count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

131st count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

132nd count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

133rd count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

134th count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

135th count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

136th count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

137th count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

138th count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

139th count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

140th count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

141st count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

142nd count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

143rd count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

144th count for 2nd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

145th count for 2nd accused: abuse of office, contrary to section 53(1) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

146th count for 2nd accused: abuse of office, contrary to section 53(1) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

147th count for 3rd accused: misappropriation of asset, contrary to section 43(1), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

148th count for 3rd accused: misappropriation of asset, contrary to section 43(1), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

149th count for 3rd accused: misappropriation of asset, contrary to section 43(1), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

150th count for 3rd accused: misappropriation of asset, contrary to section 43(1), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

151st count for 3rd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

152nd count for 3rd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

153rd count for 3rd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

154th count for 3rd accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

155th count for 3rd accused: abuse of office, contrary to section 53(1) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

156th count for 3rd accused: abuse of office, contrary to section 53(1) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

157th count for 4th accused: misappropriation of asset, contrary to section 43(1), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

158th count for 4th accused: misappropriation of asset, contrary to section 43(1), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

159th count for 4th accused: misappropriation of asset, contrary to section 43(1), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

160th count for 4th accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

161st count for 4th accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

162nd count for 4th accused: misappropriation of property and revenue, contrary to section 42(1) (c), 60(1) (2) (a) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

163rd count for 4th accused: abuse of office, contrary to sect

ion 53(1) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

164th count for 5th accused: abuse of office, contrary to section 53(1) and 61 of The Zanzibar Anti-corruption and Economic Crimes Act No. 1 of 2012, the Law of Zanzibar.

Out of 164 counts, **counts 1 to 76 is for the 1st accused**, **counts 77 to 146 is for the 2nd accused**, **counts 147 to 156 is for the 3rd accused**, **counts 157 to 163 is for the 4th accused** and **last count 164 is facing the 5th accused.**

Initially, this matter was in the good hands of my brother ***Hon Judge Abdul Hakim Issa (as he was then)*** and after his appointment to the Court of Appeal the matter was transferred to me to continue with the hearing. When I received this case file, **17 prosecution witnesses** were already testified, and **52 exhibits** as per the records were tendered and admitted, hence I had an opportunity to hear the testimony of the remaining prosecution witnesses.

On the **3rd March, 2025** the prosecution closed it case, but before that, they prayed under the provision of **section 101(1)** of the **Criminal Procedure Act No. 7 of 2018** to enter Nolle Prosequi for the **5th accused person ASIA ABDISALAMI HUSSEIN** as a result **Count No.164** was dropped and the **5th accused** was discharged by the court.

It is a requirement of the law that, after the closure of the prosecution case, the trial court is required under the provision of **section 215 of Criminal Procedure Act No. 7/2018**, to make findings as to whether the evidence by the prosecution has established a prima facie case for the accused person to answer. If the court finds there is sufficient evidence to require the accused person to make his defence, then the accused person will be called upon to make his defence and to be informed his legal rights available under **section 216 (1) (a) (b)** of the **Criminal Procedure Act No. 7/2018**. Simultaneously if the court finds no case is made out against the accused person, the court shall proceed to dismiss the charge and discharge the accused person.

For ease of reference **sections 215 and 216** reads as follows:

215. "if at the close of evidence in support of the charge it appears to the court that a case is not made out against the accused person sufficiently to require him to make a defence, the court shall dismiss the charge and discharge the accused person"

216 (1). " At the close of the evidence in support of the charge, if it appears to the court that a case is made out against the accused person sufficiently to require him to make a defence, the court shall explain the substance of the charge to the accused and shall inform him of his rights"

So, the question that this court has to deal with and answer at this stage is therefore, whether based on the evidence before this court, the court after properly directing its mind to the law and the evidence may, as opposed to will, convict if the accused choose to give no evidence.

It was held in the case of **Ronald Nyaga Kiura vs. Republic [2018] eKLR** that:

"It is important to note that at the close of prosecution, what is required in law at this stage is for the trial court to satisfy itself that a

prima facie has been made out against the accused person sufficient enough to put him on his defence pursuant to the provisions of Section 211 of the Criminal Procedure Code. A prima facie case is established where the evidence tendered by the prosecution is sufficient on its own for a court to return a guilty verdict if no other explanation in rebuttal is offered by an accused person. This is well illustrated in the cited Court of Appeal case of RAMANLAL BHAT -VS- REPUBLIC [1957] EA 332. At that stage of the proceedings the trial court does not concern itself to the standard of proof required to convict which is normally beyond reasonable doubt. The weight of the evidence however must be such that it is sufficient for the trial court to place the accused this defence."

Oxford Companion of Law at page 907 defines "**prima facie**" in the following terms:

"A case which is sufficient to all an answer while prima facie evidence which is sufficient to establish a fact in the absence of any evidence to the contrary is not conclusive"

What is meant by prima facie case has not been statutory defined, but elaborated in the case of **Ramanlal Trambaklal Bhatt v. R [1957] EA 332 – 335**, where it was stated by the Court among other things that:

" It may not be easy to define what is meant by a prima facie case, but at least it must mean one on which a reasonable tribunal properly directing its mind to the law and the evidence could convict if no explanation is offered by the defence"

Also in the case of **R v. Abdi Ibrahim Owl [2013] eKLR**, a prima facie case was defined as follows:

" Prima Facie" is a Latin word defined by the Black's Law Dictionary, 8th Edition as " Sufficient to establish a fact or raise a presumption unless

disproved or rebutted". Prima facie case is defined by the same dictionary as " The establishment of a legally required rebuttable presumption". To digest this further, in simple terms, it means the establishment of a rebuttal presumption that an accused person is guilty of the offence he/she is charged with"

Moreover, in the case of **S v. Naftali Kondja & others case No CC 04/2006 (unreported), HC Namibia, Parker J**, observed the following:

" The State bears the onus of presenting sufficient evidence before the court in order for the court to call on the accused person to defend himself or herself. If at the close of the State case there is no case for the accused to answer, he or she must be acquitted. The accused person must not be put on his or her defence in hope that his or her evidence would supplement the State case."

Furthermore, in the case of **DPP v. Morgan Malik & Nyaiba Makoni, Criminal Appeal No. 133 of 2013** the Court of Appeal held as follows:

" a prima facie case is made out if, unless shaken, it is sufficient to convict an accused person with the offence with which he is charged, the prosecution is expected to have proved all ingredients of the offence or minor cognate one thereto beyond reasonable doubt. If there is a gap it is wrong to call upon the accused to give his evidence so as to fill it in as this would amount to shifting the burden of proof".

In another case of **Murimi v. R, [1967] EA 542 at page 546**, the East Africa Court of Appeal had this to say:

" The law requires a trial court to acquit an accused person if a prima facie case has not been made out by the prosecution"

The philosophy behind the principle of prima facie case is actually premised on the principle established in the case of **Christian Kaale & Another v. R, (1992) TLR**

302 and the of John Makorobera & Another v. R, (2002) TLR 296, which held that:

“ the accused person should only be convicted of an offence on the basis of the strength of the prosecution case not on the weakness of the defence case”

Therefore, a prima facie evidence is nothing other than evidence that can lead to the conviction of the accused person if the accused person decides to give no evidence to rebut the presumptions raised. It is therefore correct to reason that, the paramount consideration in deciding whether a prima facie case has been made out or not is whether the prosecution has proved all the essential ingredients of the offence charged.

For instance, in the case of **State v. Ali Kassena (1962) GLR 144-154** the *Supreme Court of Ghana* laid down principles governing a submission of no case to answer as follow:

(a) when there has been no evidence to prove an essential element in the alleged offence,

(b) when the evidence adduced by the prosecution has been so discredited as a result of cross examination or is so manifestly unreliable that no reasonable tribunal could safely convict upon it.

(c) where the evidence adduced by the prosecution is evenly balanced in the sense that, it is susceptible to two likely explanations, one consistent with guilt and the other with innocence.

Based on the above principles of law governing a prima facie case, it is now a duty of this court to separate the grain from the chuff and to extract the truth from the mass of evidence presented and make ruling whether on the evidence adduced so far by prosecution, the accused persons have a case to answer or not.

To kick start and by way of introduction only, Zanzibar Revenue Board (**ZRB**) as it was known by then, now Zanzibar Revenue Authority (**ZRA**) is an entity which was established by the **Act No 7 of 1996**.

The functions of ZRB were stipulated under **section 5** of the repealed Act which among the functions is **paragraph (b)** which reads as follows:

“(b) to assess, collect and account for all revenue to which laws referred to in subsection (1)(a) of this section apply”.

The prosecution in this case, is alleging that, the accused persons as employees of ZRB, in their different capacity have occasioned the loss of **Tsh.214, 944, 650** and **USD 103, 267.8** the property of the Revolutionary Government of Zanzibar which was supposed to be collected and accounted for by ZRB.

To prove the Charge against the accused persons, the prosecution has paraded **30 Witnesses** and tendered **64 exhibits**.

Out of such **64 exhibits, exhibits P1 to P52**, have no relevance in this matter as they were tendered by **PW2 to PW14** employees of ZRB and have no link what so ever with the accused persons. The remaining **exhibits P53 to P64** were tendered by **PW20 to PW30**, and therefore this court shall make reference to them to determine its relevance in this matter and whether they have any link with the accused persons.

So, for this court to separate the grain from the chuff, I shall start by identifying the Tax payers which were suspected of not paying Tax and named in the Charge sheet namely:

1. Abdalla Suleiman Salum
2. Al Ghubra Marine Service Ltd
3. Ananda Beach Company Ltd
4. Belvedere Resort Ltd
5. G.P.C Ltd
6. Kororoma Ltd
7. Meyuu Ally Abdalla

8. Mocco Beach Villa
9. Mohammed Muhidini Chache
10. Nassor Mohammed Nassor
11. Suleiman Ali Mbaraka
12. Abdalla Suleiman Salum
13. Al Batross Company Ltd
14. Medeira Tours and Safari SMS Private
15. Mohammed Saleh Mohammed
16. P&P Ltd
17. Ramadhan Abdalla Mohammed
18. Zenji General Merchandise co Ltd
19. Al Amry Company

In brief, the prosecution case was initiated by a tip from informer which was received by **Shara Maktuba Haji (PW24)** who after receiving such tip reported the matter to ZAECA and **Suleiman Ali Mwinjuma (PW29)** was tasked to investigate the matter and thereafter **Marwa Joseph Maisari (PW30)** IT Programmer was approached by ZAECA to do auditing in the ZITAS system.

It is the view of this court that, at this stage of the case, the key prosecution witnesses are the ***Tax consultants*** named by the above named tax payers who bears the responsibility of paying monthly tax returns at ZRB on behalf of their clients, so to be clear the Ruling of this court at this stage shall base on the evidence given by the tax consultants, and other tax payers who testified to pay their monthly tax return directly at ZRB who will lead us to make findings, whether based on their testimonies, there is sufficient evidence linking the accused persons with those 78 alleged missing transactions which amount to **Tsh.214, 944, 650** and **USD 103, 267.8**, or not.

However, before we analyzed the evidence of tax consultants, this court will refer in brief to the evidence of **Hashim Sudi Attai (PW9)** employee of People's Bank of Zanzibar (PBZ), who in his evidence testified that, there were ***78 control numbers transactions missing*** as per **exhibit P25**, which were alleged to be paid through various networks which the PBZ uses for transactions. Therefore, it is the duty of

prosecution to provide sufficient evidence at this stage of the case which shall link all accused persons with the alleged 78 missing transactions.

Juma Said Seif (PW17) of Majaan Traders and Abdul Wakil Kassim (PW22) of Al Amry Company named **Abdulrahman Ali Baruti (PW16)** as their Tax consultant who pays monthly tax returns on their behalf.

Mohammed Muhidini Chache (PW18), Fetouh Bayoung Fetouh (PW21) of Al Batous Company Ltd, Mohammed Omar Haji (PW28) of Zanzibar Quality Food Ltd, all named **Abdalla Bakar Hassan (PW20) from CMT Tax Consultant** as their consultant who pays monthly tax returns on their behalf.

Angella Amos Msanjile (PW25) of Hamanda Beach Company, Gabriel Sfewger (PW26) of Belveve Resort, Ahmed Hamid Hassam (Exhibit P63) of G.P.C Ltd, all named **Omar Shaaban Kianga (PW27) from Smart Consultant** as their consultant who pays monthly tax returns on their behalf.

Ramadhan Abdalla Mohammed (PW15), Anthony Bosco Madeira (Exhibit P62) of Madeira Tour and Safari named **1st accused Kassim Idrissa Mussa as their tax consultant**

Rashid Said Shoka (PW23) of Zenji General Marchedies named **1st accused person Kassim Idriss Mussa**

The first tax consultant who this court will refer his evidence and found out whether he has associated himself with any accused person or named any of the accused persons or whether there is any connection with the accused persons in respect to the missing payment of monthly tax returns is:

Abdulrahman Ali Baruti (PW16) who is named by *Juma Said Seif (PW17) of Majaan Traders and Abdul Wakil Kassim (PW22) of Al Amry Company* as their tax consultant, gave his evidence and testified that, he is a tax consultant and his responsibilities among others is to prepare tax return for his clients. He testified that he pays tax either through **bank, ezy pesa or an agent**. He went on to testify that, he used to give money to the 1st accused to pay on his behalf but testified that he sees 1st

accused going to the teller at the bank to pay the money and thereafter he gives him a receipt of payment.

Another tax consultant who testified in court is **Abdalla Bakar Hassan (PW20)**, who is named by *Mohammed Muhidini Chache (PW18)*, *Fetouh Bayoung Fetouh (PW21)* of *Al Batous Company Ltd*, *Mohammed Omar Haji (PW28)* of *Zanzibar Quality Food Ltd*, as their tax consultant responsible to pay monthly tax returns on their behalf. In his evidence he testified that he normally prepares tax monthly returns for his clients and with respect to Al Batrous company he prepared the returns for \$ 4176 and gave the tax return to **Seif Ali Said** to go and make payment at ZRB. He further testified that, for the Salum Transport Company he prepared the tax return for tsz 23, 600,300/= and gave that tax return to **Mahfoudh Hussein Vuai** to go and make payment at ZRB. Based on his evidence he did not go to ZRB to pay any Tax returns himself but used other to pay. However, the prosecution side did not call **Seif Ali Said and Mahfoudh Hussein Vuai** in court to give their testimony and no sufficient reason was given for not calling them as witness.

In that regard this court will draw an inference adverse to the prosecution as stated so in the case of **Hemed Said v. Mohamed Mbilu [1984] TLR 113**, where the Court held that:

“ where for undisclosed reason, a party fails to call a material witness on his side, the court is entitled to draw an inference that if the witness were called they would have given evidence contrary to the part’s interest.”

Similar position was also taken in the case of **Azizi Abdalla v. R, [1991] TLR 71**, where is was held that:

‘The general and well known rule is that the prosecution is under a prima facie duty to call those witnesses who, from their connection with the transaction in question, are able to testify on material fact. If such witnesses are within reach but not called

without sufficient reason being shown, the court may draw an inference adverse to the prosecution."

Another tax consultant **Omar Shaaban Kianga (PW27)** from **Smart Consultant** named by **Angella Amos Msanjile (PW25)** of **Hamanda Beach Company**, **Gabriel Sfewger (PW26)** of **Belvere Resort**, **Ahmed Hamid Hassam (Exhibit P63)** of **G.P.C Ltd**, as their consultant who pays monthly tax returns on their behalf, also attended the court and gave his evidence, in his testimony during examination in chief he was asked how he pays the money at ZRB, he replied that he prepares the monthly returns for his clients and goes to ZRB and collect control number for payment, he shows control number to his clients for payments and he goes to PBZ Bank to pay the money himself.

It is very clear from the evidence of **PW16, PW20 and PW27**, who testified as tax consultants responsible to pay monthly tax returns on behalf of their client, neither of them has named directly any of the accused persons in their entire evidence.

Therefore, it is the firm view of this court that, any missing payments associated with the tax payers reported not paid at ZRB is the responsibility of the tax consultants to account for such missing payments as they have testified in this court that, they bear direct responsibility of paying tax returns on behalf of their clients.

Apart from the above named tax consultants, other witness such as **Ramadhan Abdalla Moh'd (PW15)**, testified that, during the period of 2021 and 2022 he paid tzs 200,000/= as tax and was given a receipt **H227230 (exhibit P44)** acknowledging his payment, his evidence is also supported by **exhibit P64** statement of **Khamis Sharif Silima**, in his statement he stated that on 18th January, 2022 his brother gave him the amount of tzs 200,000/ to pay for him as tax and he went to ZRB to give it to **1st accused Kassim** with control number and on the next day he was given back by **1st Accused Kassim** receipt no. **H227230** and gave it to his brother.

Also, **Rashid Said Shoka (PW23)** of **Zenji General Marchedies** in his testimony testified that, normally he goes to ZRB and pay his own monthly tax returns, but sometimes if he is late in making payment and to avoid penalty for late payment he gives money to **1st accused person Kassim Idriss Mussa** to pay on his behalf.

Apart from the oral evidence of witnesses, this court also received documentary evidence under **section 34 of the Evidence Act No. 9 of 2016** statement of witnesses in lieu of the oral evidence as **exhibit P62, P63 and P64** for the following witnesses: **Anthony Bosco Madeira, Ahmed Hamad Hassan and Khamis Sharif Silima** respectively.

In his statement, Anthony Bosco Madeira (**Exhibit P62**) who is a Director of Madeira Tour and Safari has named **1st accused person Kassim Idrissa Mussa** as their tax consultant who they give money to go and pay on their behalf and he gives them back a receipt as proof of payment

Having analyzed the evidence of all key prosecution witnesses in this case, this court is of the firm view that there is sufficient evidence which warrant the **1st accused person** to make and enter his defence as provided for under the provisions of **section 216 of the Criminal Procedure Act No. 7 of 2018** for the following Counts: **23, 31, 32, 42, 60, 68, 75 and 76.**

Furthermore, this court has come to the conclusion that, no sufficient evidence has been provided by the prosecution which shall warrant the **1st accused person** to make and enter his defence, on all other remaining Counts henceforth, this court under the provisions of **section 215 of the Criminal Procedure Act No. 7 of 2018** dismiss all of the remaining Counts and the accused is discharged from those Counts only.

With respect to the **2nd accused persons**, it has been established at this stage of the case through all prosecution witnesses that, the **2nd accused person** had no any direct contact or interaction with any of the tax payer or tax consultant, however based on the **exhibit P61** which was tender by **PW 30**, the **2nd accused person** is accused of tempering with the ZITAS system and generating false payment receipts through his IP name by using **exhibit P60** which was tendered by **PW 29.**

According to the evidence of **PW5**, who testified that, **2nd accused** was in the ICT Department in development area and his duty was system development. The question which was not given any answer by prosecution witnesses is:

How can the 2nd accused person with no direct contact or communication with any tax payer or tax consultant generate fake payment receipts?

Who among the other accused persons the 2nd accused was working together with in common purpose?

This court having gone through the entire prosecution evidence, found that, no clear evidence or link was adduced in court to give answers to those questions. Furthermore, the court has also discovered that out of many payments receipts which the 2nd accused is alleged to have tempered with, most of the receipts were not tendered in court to form part of the prosecution evidence and few payment receipts which were tendered by **PW2 to PW14** employees of ZRB have no link what so ever with the 2nd accused person.

Furthermore, **exhibits P60 and P61** which the prosecution heavily relied upon did not create any link with a tax payer to establish sufficient evidence of tempering with such payment. Such link was not established throughout the testimony of any prosecution witnesses, therefore, it is the view of this court that, **exhibits P60 and P61** alone without solid evidence from other prosecution witnesses, are not sufficient evidence to link the 2nd accused person with offences charged.

The prosecution has failed to provide evidence which provides essential elements and ingredients of the offence alleged to have been committed by the 2nd accused person, as stated so in the case of **DPP v. Morgan Malik & Nyaiba Makoni, Criminal Appeal No. 133 of 2013** and the case of **State v. Ali Kassena (1962) GLR 144-154** all cited and made reference herein above.

This court shall not put the 2nd accused on his defence in hope that his evidence would supplement the prosecution case. The prosecution evidence has left many gaps and potholes which cannot easily be rectified by putting the 2nd accused to his defence.

Therefore, based on the above, this court is of the firm view that, the evidence so far provided by the prosecution is not sufficient enough to warrant the 2nd accused person to enter his defence, and therefore, this court as required under the provisions of

section 215 of the Criminal Procedure Act No. 7 of 2018, dismisses all Counts facing 2nd accused person and he is hereby discharged.

With regard to the **3rd and 4th accused persons**, having analyzed the evidence of all key prosecution witnesses in this case, this court is of the firm view that, there is also no any evidence, let alone any sufficient evidence as required by law, which shall require and warrant the *3rd and 4th accused persons* to make and enter their defence, in fact the 3rd and 4th accused persons were not named directly or indirectly by any key witnesses in this case, they are just the victims of circumstances and suspicions.

The law regulating suspicions is very certain and settled, that suspicion however strong cannot be the basis of conviction. There are bundle of precedents to that effect to name the few see: **Shabani Mpunza @ Elisha Mpunza v. R, Criminal Appeal No. 12 of 2002, Benedict Ajetu v. R, (1983) TLR 190 and Jonas Bulai v. R, Criminal Appeal No. 49 of 2006.**

Therefore, this court as required under the provisions of **section 215 of the Criminal Procedure Act No. 7 of 2018**, dismisses all Counts facing 3rd and 4th accused persons and they are hereby discharged and free to continue with their daily lives.

Lastly and not by any means the least, the **1st accused person** has been in custody since the day he was arraigned on the **5th October, 2022**, it is about time and it is indeed in the interest of justice, this court grant bail to the accused person, pending the determination of his criminal case, subject to the accused person fulfilling the bail conditions as shall be recorded in the proceedings of this court.


S. HASSAN (J)



It is so Ordered

Dated: 10th April, 2025.