

**IN THE DISTRICT COURT OF MPANDA
AT MPANDA
EC. CRIMINAL CASE NO. 14/2015
REPUBLIC**

VS

PAUL LEONARD KATUMBILI.....ACCUSED
JUDGMENT

BEFORE: C. M. TENGWA, -RM.

The accused person one *Paul Leonard Katumbili* was arrested and arraigned of unlawful dealing with government trophies contrary to sections 86(1) and (2)(b)(c) (ii) of the **Wildlife Conservation Act No. 5 of 2009** read together with paragraph 14(d) of the 1st schedule and section 57(1) and 60(2) of the **Economic and Organized Crime Control Act Cap 200 RE 2002.**

The reasons for his arrest and trial in this court rooted from his previous dealing with government trophies in which he was alleged to have accepted and transported two elephant tusks and sold meat of hippopotamus have dealt without a permit of the director of wildlife.

The accused denied the allegation and alleged to have dealt with any trophy. The only evidence that brings the accused person in the ambit of accusation is his caution statement which was tendered and admitted in this court as exhibit P1. Apart from the said caution statement the rest are suspicious. In **Mapunda v. R Cr. Appeal No. 2 of 1989 CAT (DSM)** the Court held that:-

“It is trite law that suspicious alone, however strong cannot be the basis of conviction”.

As I have already pointed out the only evidence against the accused person is his caution statement. It is accepted by both jurists and prudent men that admission of confession of an offence is a self incrimination. The court is therefore entitled to convict the said person.

As it has appeared the accused person admitted to have hunted and sold elephant tusks. On the basis of his admission the value of the elephant and hippopotamus were assessed and determined to be Tshs 56,000,000/=. The valuation was therefore not supported by any trophy but mere words of the police officer fished from the admission of the accused person. I am of a settled view that a confession or admission of a person holds water if the act alleged to have been committed is proved to have occurred.

There is no evidence showing that the said elephant or hippopotamus was real killed and its trophy transported or offered for sale. The absence of the proof of killing accepting and offering has made the admission hanging without touching anything. The proof of the killing or death of an elephant and hippopotamus was mandatory. It has appeared that the alleged killings took place at Ugala and in one of the incident admitted by the accused person his associate was shot in action by park rangers.

The villagers or park rangers would have been summoned to prove the existence of the events that the accused person admitted. Moreover, the court is obliged to act on a caution statement that seems to be true. Then how can this court believe that the accused person was speaking the truth if there is no any proof of the alleged acts. Even if the court would have believed the caution statement of the accused person still it would have gone further as it would have stopped on the way.

The alleged activities of dealing or relating to dealing with government trophies ought to have been proved to have occurred. The cautions statement of the accused person would have strengthened the occurrence and linked the accused person with the occurred act. The said activities includes but not limited to hunting, receiving, retaining offering for sale, negotiating of price, finding buyers. In the absence of the proof of any of the alleged activities the court

cannot be easier persuaded. This court finds the accusation against the accused person not being proved beyond reasonable doubts. It finds him not guilty and acquits him under section 235 of the **Criminal Procedures Act Cap 20 RE 2002.**

Sgd.
C.M. Tengwa RM
20/01/2016

Right to appeal is available to the aggrieved party and is hereby explained.

Sgd.
C.M. Tengwa RM
20/01/2016