



IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

CRIMINAL DIVISION

CRIMINAL APPEAL NO. 41 OF 2017

(Being Blantyre CRM Criminal Case No. 380 of 2017 Before H/W Ligowe)

BETWEEN:

GRACE KAMOTO.....APPELLANT

AND

THE REPUBLIC.....RESPONDENT

CORAM: THE HON. JUSTICE MR S.A. KALEMBERA

Mr Chiwala, Public Prosecutor, of Counsel for the Respondent

Mr Maele, of Counsel for the Appellant

Mrs Chanonga, Official Interpreter

Miss Mombere, Court Reporter

JUDGMENT

Kalembera J

The Appellant, Grace Kamoto, appeared before the Chief Resident Magistrate Court sitting at Blantyre charged with six Counts of corrupt practices contrary to section 24 (1) of the Corrupt Practices Act (CPA). After the prosecution's case, the learned magistrate amended the Charge Sheet in accordance with section 151 of the Criminal Procedure & Evidence Code (CP&EC), substituting the six Counts with two alternative Counts. The Appellant pleaded not guilty to the amended charges.

The particulars of the offence in the 1st Count alleged that Grace Kamoto, being a person employed in the public service as a police officer, in or about 4th June 2011, at Limbe Police Station corruptly solicited K4,000.00 from Patrick Khabaza and/or corruptly obtained K2,500.00 from Patrick Khabaza and K1,500.00 from Pilirani Chimwayi on or about the 7th June 2011 for herself, as inducement for her to release Pilirani Chimwayi on bail, the said release being the concern of the Malawi Police Service.

The particulars of the offence in the 2nd Count alleged that Grace Kamoto, being a person employed in the public service as a Police Officer, on or about the 4th June 2011, abused her office as a public officer by corruptly soliciting K4,000.00 from Patrick Khabaza and/or corruptly obtaining K2,500.00 from Patrick Khabaza and K1,500.00 from Pilirani Chimwayi on or about 7th June 2011 for herself, as inducement for her to release Pilirani Chimwayi on bail, the said release being the concern of the Malawi Police Service.

After a full trial, the Appellant was found guilty and convicted of corrupt practices contrary to section 24 (1) of the CPA. She was sentenced to 12 months IHL suspended on condition that she performs 480 hours Community Service at Limbe Market.

Being dissatisfied with her conviction the Appellant hereby appeals against the same. The Appellant filed the following four grounds of Appeal:

- a. The lower court erred in law in convicting the Appellant of the Charge of corrupt practices under section 24 (1) of the Corrupt Practices Act (CPA) when the same was bad for duplicity.
- b. The lower court erred in law in convicting the Appellant when there was no evidence before the court that the complainant was released on bail on account of the alleged K2,500.00 which was allegedly given to the accused.
- c. The lower court erred in law in convicting the Appellant when there was no corroboration of the allegation that PW 3 had given money to the Appellant.
- d. The trial court erred in law in convicting the Appellant without having regard to section 337 of the Criminal Procedure & Evidence Code.

Thus, the main issues for determination are:

