

MUSHUNGA v THE PEOPLE (1968) ZR 85 (HC)

HIGH COURT

EVANS J

30th August 1968

Flynote and Headnote

- [1] **Criminal procedure - Guilty plea - Plea under admission - of - guilt system in section 199A of the Criminal Procedure Code - Procedure for that system must be strictly followed.**

The procedure laid down in section 199A of the Criminal Procedure Code for the admission - of - guilt system must be strictly followed.

Statute construed:

- (1) Criminal Procedure Code (1965, Cap.7), s.199A.

The appellant in person.

Malama, State Advocate, for the respondent.

Judgment

Evans J: In this trivial case, the appellant appeals against his conviction under the admission - of - guilt system (section 199A of the Criminal Procedure Code) for the offence of being an unauthorised passenger on a goods vehicle, contrary to section 237 (2) of the Roads and Road Traffic Ordinance, on 2nd March, 1968. He signed an admission - of - guilt form at Westwood Police Station on the 2nd March and paid a deposit of K1.00, which amount he was fined when he was convicted by the lower court on the 13th March.

EVANS J

[1] It is not necessary to go into further details or to refer to the appellant's grounds of appeal because I intend to allow the appeal for the following reasons:

- (1) The statement of facts served on the appellant pursuant to section 199A (1) (b) of the said code did not recite the essential fact that the vehicle concerned was a *goods* vehicle.
- (2) The said statement of facts was not in the correct prescribed form, in that it was not signed.
- (3) The "fixed day" for the matter to be dealt with by the lower court was stated in the documents prepared by the police (and handed to the appellant) to be the 6th March, 1968, but in fact the matter was dealt with on the 13th March. For obvious reasons (for example in case the accused wishes to attend court and address it), "admissions - of - guilt" must be dealt with on the "fixed day", on which day only the court may exercise its powers under subsection (5) of the said section 199A.

This appeal is allowed. The conviction and sentence are reversed, the appellant is acquitted, and the fine of K1.00 is to be refunded to him.

Appeal allowed.