IN THE DISTRICT COURT OF NGORONGORO AT NGORONGORO

TRAFFIC CASE NO. 000015292 OF 2026

CASE REFERENCE NO. 202607082000015292

ISABELLE GARANX ..... COMPLAINANT / APPELLANT / APPLICANT / PLAINTIFF

DAVID GARANX ..... COMPLAINANT / APPELLANT / APPLICANT / PLAINTIFF

JOY GARANX ..... COMPLAINANT / APPELLANT / APPLICANT / PLAINTIFF

VERSUS

RAPHAEL ERNEST RAPHAEL ..... RESPONDENT / DEFENDANT

PROCEEDINGS

1. Coram

- Coram Date : Wed Jul 8 2026
- Case Stage : Mention
- Court Room : COURT ROOM NO. 1
- Case Status : Pending
- Coram:

  B. S. Sivonike, PRM

Private prosecutors: Both absent

Accused: Absent

CC: Naanjela

Mr Julius Karata Advocate for all private prosecutors: Absent

1.1 Proceeding

- Proceeding Date : Wed Jul 8 2026

PROCEEDING

Court: This is a fresh charge of private prosecution, both parties are absent, thus the matter adjourned.

Order (1) Mention on 23/07/2026

(2) The private prosecutors be notified

B. S. Sivonike, PRM

08/07/2026

Case Adjournment

- Stage Date : Thu Jul 23 2026
- Stage Time : 09:00:00
- Order : The private prosecutors be notified
- Case Stage : Mention
- Case Reference : 202607082000015292

B. S. SIVONIKE, PRM II

2. Coram

- Coram Date : Thu Jul 23 2026
- Case Stage : Mention
- Court Room : COURT ROOM NO. 1
- Case Status : Pending
- Coram:

  B. S. Sivonike, PRM

  Private prosecutors: Absent

  Mr Julias Karata Advocate for all private prosecutors: Present

  Accused: Absent

  CC: Naanjela

2.1 Proceeding

- Proceeding Date : Thu Jul 23 2026

PROCEEDING

Mr Julias Karata Advocate: I would like to notify this court that I am representing all three private prosecutors in this case:

Your honour, I pray before the court for an order to amend the charge under section 251 (1) of The Criminal Procedure Act, Cap 20 R.E 2023 in order to add counts on this charge. I pray to be given 6days so that I can amend it and upload on the electronic case management system.

Court: The prayer sought by the advocate for the private prosecutors is granted.

Order (1) Mention on 31/07/2026 at 09:00 a.m virtually

(2) The advocate of private prosecutors is ordered to file the amended charge on 29/07/2026

B. S. Sivonike, PRM

23/07/2026

Case Adjournment

- Stage Date : Fri Jul 31 2026
- Stage Time : 09:00:00
- Order : The advocate for private prosecutors is ordered to file the amended charge on 29/07/2026
- Case Stage : Mention
- Case Reference : 202607082000015292



B. S. SIVONIKE, PRM II

3. Coram

- Coram Date : Fri Jul 31 2026
- Case Stage : Mention
- Court Room : COURT ROOM NO. 1
- Case Status : Pending
- Coram:

  B. S. Sivonike, PRM

  Mr Julias Karata advocate for private prosecutors: Present virtually

  Accused: Absent

  CC: Naanjela

3.1 Proceeding

- Proceeding Date : Fri Jul 31 2026

PROCEEDING

Mr Julias Karata advocate: Your honour, I filed the amended charge as per the order of the court dated 23/07/2026. I filed the same on 28/07/2026 on the judiciary portal however upon appearing in court for orders today 31/07/2026 I was informed by the magistrate that she has not seen the amended charge sheet in the system of CMS. And upon further follow ups with the Registrar Hon. Erasto Philly, he informed me that the matter has to be followed by the judiciary IT in order to trace the application. Therefore, because of that position I pray to adjourn this matter until the filed amended

charge is traced. I pray this matter be adjourned to 06/08/2026.

Court: The prayer sought by the advocate of private prosecutors is granted. On the afore mentioned date the advocate for private prosecutors shall inform the court on the status of his amended charge of which he told the court that he filed on the system of CMS on 28/07/2026

Order (1) Mention on 06/08/2026

(2) The advocate for private prosecutors to appear

B. S. Sivonike, PRM

31/07/2026

Case Adjournment

- Stage Date : Thu Aug 6 2026
- Stage Time : 09:00:00
- Order : Mention on 06/08/2026
- Case Stage : Mention
- Case Reference : 202607082000015292



B. S. SIVONIKE, PRM II

4. Coram

- Coram Date : Thu Aug 6 2026
- Case Stage : Mention
- Court Room : COURT ROOM NO. 1
- Case Status : Pending
- Coram:

  B. S. Sivonike, PRM

  Mr Julias Karata advocate for private prosecutors: Present virtually

  Accused: Absent

  CC: Naanjela

4.1 Proceeding

- Proceeding Date : Thu Aug 6 2026

PROCEEDING

Court: This case was scheduled for mention today but I am sick and I was at the hospital attending medical treatment. For that reason, the matter adjourned.

Order (1) Mention on 12/08/2026

(2) The advocate for private prosecutors to participate

B. S. Sivonike, PRM

06/08/2026

Case Adjournment

- Stage Date : Wed Aug 12 2026
- Stage Time : 09:00:00
- Order : The advocate for private prosecutors to participate
- Case Stage : Mention
- Case Reference : 202607082000015292



B. S. SIVONIKE, PRM II

5. Coram

- Coram Date : Wed Aug 12 2026
- Case Stage : Mention
- Court Room : COURT ROOM NO. 1
- Case Status : Pending
- Coram:

  B. S. Sivonike, PRM

  Mr Julias Karata advocate for private prosecutors: Present virtually

  Accused: Absent

  CC: Elizabeth

5.1 Proceeding

- Proceeding Date : Wed Aug 12 2026

PROCEEDING

Mr Julias Karata advocate for private prosecutors: I have tried to make follow up from Mr Erasto Philly, Dr, so far, the amended charge is not traced even though the portal on my side shows that the amended charge was filed on 28/07/2026 and I have a proof on that in terms of a picture which I can give to the court for record purposes.

Court: As I noted earlier on 31/07/2026 there is no any amended charge in the system of CMS which was filed by the advocate for private prosecutors on 28/07/2026, the status remained the same.

Advocate: Since the amended charge I filed on 28/07/2026 is not seen by the court apart from the fact that I filed the same. I pray to file the original document under Rule 20 (1) (e) of The Judicature and Application of Laws (Electronic Filling) Rules of 2018 which provides that;

(1) The magistrate upon an oral application by a party, his advocate, exempt a party from filing electronically of the whole or part of the pleadings or documents where;

(e) where for any other reason it is deemed sufficient to warrant the exemption.

The reason of praying to file the original is that on the portal it shows that I filed the amended charge as per the court order dated 28/07/2026 by using the same reference number of which I used to file previous documents. But on the part of the judiciary the amended charge is not seen. I pray this honourable court to give me permission to file original amended charge and other documents which will be used on evidence. If the court will allow me, I can file the same on 17/08/2026. On the date I will file the amended charge I pray the court to give me summons to the accused person.

Court: The proof of which the advocate for private prosecutors brought in court for record purposes has nothing to do with this case. For clarity the advocate for private prosecutors filed the said amended charge by using wrong case reference number 202512192000029647 on 28/07/2026 which is not of this case. By filing the amended charge by using wrong case reference number is as good as if the advocate for private prosecutor filed nothing before this court. The reference number of this case is

202607082000015292. Since the amended charge of which the advocate for private prosecutors told the court that he filed on the system of CMS on 28/07/2026 is not seen, and that case cannot proceed without it. For the purpose of justice of both sides, I hereby order the advocate for private prosecutors to file the amended charge and other related documents on the system of CMS on 17/08/2026.

Order (1) Mention 20/08/2026

(2) The advocate for private prosecutors to file the amended charge and other documents on the system of CMS on 17/08/2026

B. S. Sivonike, PRM

12/08/2026

Case Adjournment

- Stage Date : Thu Aug 20 2026
- Stage Time : 09:00:00
- Order : The advocate for private prosecutors to file the amended charge on the system as prayed
- Case Stage : Mention
- Case Reference : 202607082000015292



B. S. SIVONIKE, PRM II

6. Coram

- Coram Date : Thu Aug 20 2026
- Case Stage : Mention
- Court Room : COURT ROOM NO. 1
- Case Status : Pending
- Coram:

B. S. Sivonike, PRM

2nd private prosecutor: Present virtually

Mr Julias Karata advocate for private prosecutors: Present virtually

Accused: Absent

CC: Elizabeth

6.1 Proceeding

- Proceeding Date : Thu Aug 20 2026

PROCEEDING

Mr Julias Karata advocate for private prosecutors: Your honour Mr David Garanx who is the 2nd private prosecutor is present in court virtually.

Mr Julias Karata advocate for private prosecutors: Your honour I am appearing in court to pray to allow the private prosecutors to file the emended charge electronically. Your honour, I have complied with the order of the court to file the amended charge physically since the court has

migrated from using hard copies and it would be prudent for the court to allow the private prosecutors to file the amended charge electronically and if it please the court, I will be able to file the same tomorrow meaning on 21/08/2026. That is all.

Order: It is undisputable fact that currently the court has migrated from filling cases manually/physically in court that is why I allowed the advocate for private prosecutors to file the amended charge and other related documents on the system of CMS. Since today, the advocate for private prosecutors prayed to the file the amended charge on the system of CMS, his prayer is granted and he has to file the same on 21/08/2026. In order to avoid inconveniences, this court would like to insist that the private prosecutors have to file the amended charge on the relevant case reference number. I am saying so, because on 28/07/2026, the advocate for private prosecutors filed the amended charge and other related documents by using wrong case reference number which is not of this case. That mistake caused this court not to see the amended charge which the advocate for private prosecutors insisted to have filed before this court to date.

Order (1) Mention on 24/08/2026

(2) The advocate for private prosecutors to file the amended charge on the system of CMS.

B. S. Sivonike, PRM

20/08/2026

Case Adjournment

- Stage Date : Mon Aug 24 2026
- Stage Time : 09:00:00
- Order : The private prosecutors have to file the amended charge
- Case Stage : Mention
- Case Reference : 202607082000015292



B. S. SIVONIKE, PRM II

7. Coram

- Coram Date : Mon Aug 24 2026
- Case Stage : Mention
- Court Room : COURT ROOM NO. 1
- Case Status : Pending
- Coram:

B. S. Sivonike, PRM

Mr Julias Karata advocate for private prosecutors: Present virtually

Accused: Absent

CC: Elizabeth

7.1 Proceeding

- Proceeding Date : Mon Aug 24 2026

PROCEEDING

Mr Julias Karata advocate: Your honour, I have complied with the order of filing the amended charge on the system of CMS of which I was directed to file the same on 21/08/2026. For that reason, I pray the court to issue summons to the accused person so that he can appear in court on 01/09/2026.

Court: Prayer sought by the advocate of private prosecutors is granted.

Order (1) Mention on 01/09/2026

(2) Summons to appear to the accused person be issued

B. S. Sivonike, PRM

24/08/2026

Case Adjournment

- Stage Date : Tue Sep 1 2026
- Stage Time : 09:00:00
- Order : Summons to the accused person be issued
- Case Stage : Mention
- Case Reference : 202607082000015292



B. S. SIVONIKE, PRM II

8. Coram

- Coram Date : Tue Sep 1 2026
- Case Stage : Mention
- Court Room : COURT ROOM NO. 1
- Case Status : Pending
- Coram:

  B. S. Sivonike, PRM

  Mr Julias Karata advocate for private prosecutors: Present via audio teleconference

  Mr Godfrey Mlingi advocate for the accused: Present via audio teleconference

  Accused: Absent

  CC: Elizabeth

8.1 Proceeding

- Proceeding Date : Tue Sep 1 2026

PROCEEDING

Mr Godfrey Mlingi advocate: The accused was not served with the summons to appear in court today by the private prosecutors. I was notified by the advocate of private prosecutors on the presence of this case. I communicated with the accused and I told him on the presence of this case which is filed against him, he instructed me to appear today in court and to be served with all relevant documents relating with this case. I kindly, inform

this court that I am committed and well instructed by the accused to represent him in this case until the accused withdraws the instruction. I am ready to receive the instruction of the court relating with this case.

Mr Julias Karata advocate: I heard the submissions of advocate, however I pray to tell the court that it is important that summons should be served to the accused first before the advocate of accused receives the documents relating with this case. Sectio 101 of The Criminal Procedure Act, provides that summons shall be served to the accused in order to come to answer the charge in court. The role of an advocate comes when the accused is already summoned and he appeared in court in order to take plea or to pray for bail, it is where the role of advocate comes in. For that reason, I pray the summons to be served to the accused in person so that the confirmation of service be returned to the court which issued it. Then, the advocate can appear in court and represent the accused person. I pray for a fresh summons be issued and served to the accused so that the court be aware that the accused knows the charges which have been filed against him and from there the court can take other steps. That is all.

Mr Godfrey Mlingi advocate: I heard the submission of the advocate for private prosecutors and I have no objection on the prayer sought by him that a fresh summons be issued and served to the accused first. For that reason, I currently withdraw myself from representing the accused until when he will be served with summons to appear by the private prosecutors. Then, my instruction will resume.

Court: The prayer sought by the advocate of accused of withdrawing himself from representing the accused until service of summons to the accused personally is effected is granted. On the other hand, the prayer sought by the advocate of private prosecutors that a fresh summons be issued to accused person is granted as well.

Advocate for private prosecutors: Since the accused is on journey most of the time, I pray this case be adjourned to 17/09/2026 so that we can serve him wherever he will be.

Order (1) Mention on 17/09/2026

(2) Summons to the accused person be re issued

B. S. Sivonike, PRM

01/09/2026

Case Adjournment

- Stage Date : Thu Sep 17 2026
- Stage Time : 09:00:00
- Order : Accused be served with summons to appear
- Case Stage : Mention
- Case Reference : 202607082000015292



B. S. SIVONIKE, PRM II

9. Coram

- Coram Date : Thu Sep 17 2026
- Case Stage : Mention
- Court Room : COURT ROOM NO. 1
- Case Status : Pending
- Coram:

  B. S. Sivonike, PRM

  Mr Julias Karata advocate for private prosecutors: Present via audio teleconference

  Accused: Absent

  CC: Naanjela

9.1 Proceeding

- Proceeding Date : Thu Sep 17 2026

PROCEEDING

Court: This case is coming for the mention but today I am so sick, so the matter adjourned.

Order (1) Mention on 25/09/2026

(2) Both parties be notified

B. S. Sivonike, PRM

17/09/2026

Case Adjournment

- Stage Date : Fri Sep 25 2026
- Stage Time : 20:41:00
- Order : Parties to be notified
- Case Stage : Mention
- Case Reference : 202607082000015292



B. S. SIVONIKE, PRM II

10. Coram

- Coram Date : Fri Sep 25 2026
- Case Stage : Plea Taking
- Court Room : COURT ROOM NO. 1
- Case Status : Decided
- Coram:

  B. S. Sivonike, PRM

  Private prosecutors: All absent

  Mr Julias Karata advocate for private prosecutors: Present

  Mr Godfrey Mlingi advocate for the accused: Present

  Accused: Present

  CC: Naanjela

10.1 Proceeding

- Proceeding Date : Fri Sep 25 2026

PROCEEDING

Mr Julias Karata advocate: Your honour, I am representing all private prosecutors who are not in court.

Mr Godfrey Mlingi advocate: Your honour, I am representing the accused person who is in court.

Court: The advocate of accused person has been supplied with the amended charge and other documents which are intended to be used in this case before plea taking as per Rule, 4(2) of The Judicature and Application of Laws (Defence Entitlement to Prosecution Evidence) Rules, 2025

B. S. Sivonike, PRM

25/09/2026

Mr Godfrey Mlingi advocate for accused person: I have received the amended charge and other documents involving this case on behalf of the accused person.

Advocate of private prosecutors: I pray the charge be read to the accused person by the court.

Court: Charge is read over and explained to the accused person who is asked to plead thereto;

1ST COUNT

Accused: It is not true, I was prosecuted and convicted for these or same offences (autrefois convict) before this court through Traffic case no. 00004140/2025.

Mr Julias Karata advocate for private prosecutors: In the light of S. 298 (1) of The Criminal Procedure Act, Cap. 20 R.E 2023 we as private prosecutors' objects that the accused was previously charged and convicted

for the same offences by this court.

Mr Godfrey Mlingi advocate: On the amended charge which we have been supplied the accused is charged with the offences of causing bodily injury through careless driving which are the same offences which the accused was charged and convicted on Traffic case no. 00004140/2025 which was heard by this court before Hon. Mboya, RM. To add on that the particulars of the offences which are in the present case are substantially the same with the particulars of the offences written in Traffic Case no. 00004140/2025, the date of which this offence took place, time of which this incident took place is 10:30hrs, the type of the motor vehicle involved in that accident had registration no. T. 549 AZF make Toyota Landcruiser, the area where the accident took place is Ndutu area within Ngorongoro area.

What was stated in the case no. 00004140/2025 is the same with the case which is before the court. On the previous Traffic case no. 00004140/2025, the accused pleaded guilty and he was punished. The only difference between the case which is before the court now and Traffic case no. 00004140/2025 is the names of the victims who are, according to the supplied charge sheet and documents we have the complainants who are said to be part of the persons who were on that accident were not included in the previous Traffic case which was not the fault of an accused person but was the assessment of the investigation of the police officers who after investigation noted that there were no watertight evidence to involve them or include them in that case so they left them.



So, to prosecute the accused for the second time while he was already prosecuted, convicted and sentenced is against the law/breach of the law specifically section 140 and 298 (1) of The Criminal Procedure Act, Cap. 20 R.E 2023. Since the case before this court is substantially the same with the previous Traffic case already noted above, we have no doubt that the principle of autrefois convict applies in this case. I pray to supply to the court the charge sheet, ruling and the exchequer receipt showing that the accused paid fine in Traffic Case no. 00004140/2025 for the purpose of reference

Advocate for private prosecutors: I have no objections for the above documents to be admitted for reference purposes.

Court: The charge, ruling and the exchequer receipt of fine payment involving Traffic case no. 00004140/2025 are hereby collectively received for reference purposes

Advocate for accused: The case of **Maduhu Masele V Republic [1991] TLR 143** the court stated clearly on how a case can be treated/fall under autrefois acquit or convict. I humbly submit. That is all.

Advocate for private prosecutors: Your honour, I disagree with the submission made by the advocate of accused on the plea of autrefois convict. The advocate for accused stated that the basis for raising the above principle is that the charge is the same. I agree that the offences are the same, the date of committing the offences are the same, the area where

the accident took place, the time when the offences were committed and the motor vehicle which was driven by the accused is the same but the present charge Traffic case no. 15292/2026, differs with Traffic case no. 000004140/2025 in terms of victims who are involved in the two cases. Also, victims in reflected in Traffic case no. 15292/2026 are different with the victims who were noted in Traffic case 000004140/2025.

Your honour, even the advocate for accused person agreed that the victims involved on the previous Traffic case no. 00004140/2025 and the present Traffic case no. 15292/2026 are different. The counsel for the accused, stated that the victims noted in present Traffic case no. 15292/2026 were not considered by the investigators because the investigation machineries did not see the reason of involving them on the previous Traffic case of which the accused was convicted. For that reason, the advocate of accused stated that failure by prosecution side to include all victims in the previous traffic case was not the fault of accused however the advocate did not dispute that the present victims namely Isabelle Garanx, David Garanx and Joy Garanx who are victims in Traffic case 15292/2026 were not in the motor vehicle which was involved in that accident, he only stated that the investigation did not see the reason of including them in the previous charges so the accused has no fault on his part.

The advocate of private prosecutors argued that, the accused was in court when Traffic case no. 000004140/2025 came for hearing and he heard public prosecutors telling the court that victims were two in that accident

while he knew that the victims were five. I pray to read the Ruling which is already tendered by the advocate of accused involving Traffic case no. 000004140/2025 specifically Pg 1, 3rd paragraph the accused admitted that he driven the motor vehicle carelessly and caused bodily injuries to two victims. Your honour, to say that it was not the accused fault for not including all victims on previous Traffic case, it is not true because he committed these offences, he was present when the accident took place and he would have told the court that there were five victims on that accident.

Your honour, even if the investigators or public prosecutors on their own wisdom saw that only two persons were injured on that accident, so these are complaints that there are three other persons who were injured on the same accident and are mentioned on the charge. The case of Maduhu Masele V R (supra) which is cited by the advocate of accused is irrelevant with the case in court because the victims in Traffic case 000004140/2025 are different with the victims reflected in Traffic case no. 15292/2026. That is all.

Mr Godfrey Mlingi advocate: The submission made by the advocate for private prosecutors that the victims are different, it is well known that the custodian of all criminal cases is the DPP who prosecuted the first Traffic case while the present case is prosecuted by private prosecutors which does not remove the truth that the custodian of all criminal cases is the DPP. The private persons who are prosecuting this case even if are private

prosecutors are under the guardianship of DPP

It is true that the victims who are in this case are different with the victims reflected in Traffic case 000004140/2025, the advocate for private prosecutors stated clearly that the victims who are in this case were involved in that accident we don't dispute that, but the only unanswered question is who was legally bound to state those facts in court because prosecution side who investigated the case and analysed the evidence noted that they had no reason of including the victims who are complaining now in the previous Traffic case. Therefore, the court has only the duty to decide on the facts brought before it by the complainants. In Traffic case no. 00004140/2025, the court decided on what was brought by prosecution side before it.

Your honour, the advocate for private prosecutors stated that the accused was in court and he heard that two victims were involved in that accident and he remain quiet. It is a cardinal principle in criminal cases that the accused cannot write his own case, for that reason prosecution side was duty bound to bring all facts and the evidence involving that case and the onus of proving the same was on prosecution side and not the accused person

Your honour, the advocate for private prosecutors stated that even if prosecution side brought only two victims on the previous traffic case, this is part of complaints showing that there are other victims who were injured on

the same accident. It is a social same that we cannot resurrect the dead in order to ascertain the heirs. This case was not appealed, revised, so we cannot re open this case on another door.

Your honour, I want to finalize by rejoining on the case I cited of Maduhu Masele V R (supra), of which the advocate for private prosecutors read clearly one among the test of Autrefois convict or acquit. Therefore, this case passed the test stated on the above case, and there is no doubt that this is autrefois convict. That is all.

RULING

During plea taking on the first count the accused pleaded not guilty to the charge and raised the principle of autrefois convict on Traffic case no 00004140/2025 decided by this court. The advocate for accused person submitted that the offences involved in both cases, time of commission of the offences, date of commission of offences, place where these offences took place and the motor vehicle involved in that case are the same with the one contained in the present Traffic case no 15292/2026 but the only difference is the victims who are named in the two cases. The advocate for the accused person referred this court to the case of Maduhu Masele V R (Supra), S. 140 and 198 both of The CPA, Cap. 20. R.E 2023 and he tendered the charge, ruling and the receipt of payment of fine involving Traffic case no. 00004140/2025 which were not disputed by the advocate for the private prosecutors.

On response the advocate for private prosecutors admitted that this case involves the same offences, time, place, date, the motor vehicle but the victims who were in Traffic case no. 00004140/2025 and the present ones are different.

Now, the main issue to be determined by this court is whether the principle of autrefois convict was correctly raised by the accused in this case or not.

In order the principle of autrefois convict to apply, parties involved in the previous case and the present case must be the same. Turning to the case at hand, there is no dispute that both parties agreed that the only difference between Traffic case no. 00004140/2025 and Traffic case 15292/2026 is names of the victims. In Traffic case no. 00004140/2025 two victims were involved while in Traffic case no. 15292/2026 three victims are involved. This passed through with the ruling and the charge sheet of Traffic case no. 00004140/2025 and noted that the victims who were involved in Traffic case no. 00004140/2025 were one Philippe Garanx and Allesia Congu while in Traffic case no. 15292/2026 the victims are Isabelle Garanx, David Garanx and Joy Garanx. So even if the accused is the same on both traffic cases but victims are different. Since the victims are different the accused is not prosecuted for the 2nd time on the same parties. Thus, this court is satisfied that parties in the two cases are not the same.

Another factor to be considered for the principle of autrefois convict or acquit to stand is that the offences must be the same. Without hesitation the

offences which the accused was charged in Traffic case no 00004140/2025 and the present case are the same.

Also, it must be proved that the previous decision was made by a court with competent jurisdiction. No doubt the ruling delivered on Traffic Case no. 00004140/2025 was made by a court with competent jurisdiction.

According to the documents supplied by the advocate for the accused person for reference purposes, I have no doubt that the accused was charged, convicted and paid fine on Traffic case no. 00004140/2025, the only difference is that the names of the victims who are involved in the two cases as noted above.

On the argument that the accused has no fault because it was the prosecution side who did not include the victims of this case on Traffic case no. 00004140/2025, the advocate for private prosecutors submitted that the accused knew that he had five persons in the motor vehicle who were involved on that accident so he was supposed to tell the court that there were three victims who were left behind. On rejoinder the advocate of accused insisted that the accused has no duty to write his own case. I agree with the advocate for accused that the accused has no such legal duty to tell the court if there are victims who are left behind by the prosecution side. The victims on their own had a duty to go to the the office of DPP to ask as to why they are left behind while they were injured on the same accident.



The advocate of accused challenged the argument of advocate for private prosecutors that since three victims were left behind, these are complaints showing that there are other victims who were injured on the same accident. He submitted that we cannot resurrect the dead in order to ascertain the heirs. I don't agree with the rejoinder made by the advocate for the accused person because a right of a person cannot be buried on the mere reason that the DPP opted not to charge the accused on behalf of the victim or the investigation machinery left them behind after assessment of the facts and evidence gathered during investigation. Section 100 of CPA, Cap. 20 R.E 2023 allows a private person to prosecute his/her case where the DPP is not interested to do the same after being permitted by the court. That is why in this case private prosecutors have been permitted by the court to prosecute privately their case against the same accused person in order to get their rights if any. Failure of prosecution side to include the present victims in the previous Traffic Case no. 00004140/2025 is not a bar for them to charge the same accused person before the court with competent jurisdiction, because the law allows the same

The case of Maduhu Masele V R (supra) cited by the advocate of the accused to support his argument is irrelevant with the case at hand for the reasons already noted above that the victims are different in the two cases but the accused is the same. Thus, this court is satisfied that the defence of autrefois convict which is raised by the accused in this case does not apply.

B. S. Sivonike, PRM

25/09/2026

Court: We now proceed with plea taking on part of the accused person for the second count

B. S. Sivonike, PRM

25/09/2026

Advocate of accused person: Your honour, before proceeding with plea taking, I have a concern on the application of Rule 4 of The Judicature and Application of Laws (Defence entitlement to prosecution evidence), Rules GN. No. 597/2025 in relation to this case. Your honour, this rule provides that any person who is charged before the subordinate court has to be supplied with the statements of all witnesses and exhibits which are intended to be used during trial. For that reason, we are not supplied with the statements of all private prosecutors who are noted in the charge and we think they are going to be witnesses in this case and we are supposed to get them before plea taking. Since we have not yet supplied with the said documents the case lacks legs to stand before the court. The documents of which we received earlier have no any witness statement. That is all.

Mr Julias Karata advocate for private prosecutors: This case is conducted by private prosecutors. Private prosecutors in this case are complainants at the same time which is different with a criminal case prosecuted by the Republic where there are complainants and prosecutors who are two

different persons. Therefore, since private prosecutors are the complainants and prosecutors at one, they cannot record their own statements on their own rather they have prepared affidavits under oath which stands as statements on their part. Their affidavits were prepared at their Country which is France and there is no an advocate from Tanzania at France and the affidavit of an advocate from France is not recognised in Tanzania. According to The Oaths and Statutory Declarations Act, they went at the Embassy of Tanzania in Paris and they were sworn by the Ambassador of Tanzania in France. These affidavits stand on behalf of their statements because the Republic or the Police officers are not involved in the prosecution of this case. Annexture 8, 9 and 10 included on the documents served to the advocate of accused person are affidavits of victims which stands as statements of private prosecutors.

Your honour, these private prosecutors are intended to be called as witnesses according to Rule 4 of The Judicature and Application of Laws (Defence entitlement to prosecution evidence), Rules GN. No. 597/2025. There is no law stating clearly that private prosecutors have to supply their statements or not in court for the purpose of issuing them to the accused or his/her advocate before plea taking but the judgment of the HC allowed the private prosecutors to prosecute their case unconditionally. There is no law waiving private prosecutors to supply statements of witnesses to the accused person.

Advocate of accused: The advocate of private prosecutors told the court that this case is prosecuted by private prosecutors, so if this case is of private prosecution, can we ignore the law? this case is governed by Criminal Procedure Act and these rules goes squarely with the CPA so, what is stated by the advocate for private prosecutors is a statement from the bar which is not supported by the law. There is no citation of any law which would help the court to diverge from following the law on cases of private prosecution. Since the law provides the procedures on how to conduct criminal cases, going against the law it is going against the principle of fair trial.

Your honour, I pray to withdraw my concern and submissions I made about the requirements provided under Rule 4 of The Judicature and Application of Laws (Defence entitlement to prosecution evidence), Rules GN. No. 597/2025 and I pray the court to proceed with plea taking now against the accused.

Advocate for private prosecutors: I have no objections for the prayer presented by the advocate of accused person of withdrawing his concern as requested.

Court: The prayer sought by the advocate of accused person is hereby granted and the concern raised by him on the application of rule 4 of The Judicature and Application of Laws (Defence entitlement to prosecution evidence), Rules GN. No. 597/2025 in relation to this case is hereby



withdrawn as prayed by himself.

B. S. Sivonike, PRM

25/09/2026

Court: Since the advocate of accused has withdrawn his concern, now we proceed with plea taking on part pf the accused person for the second count

Accused: I pray to be reminded my offences.

Court: The prayer sought by the accused person is hereby granted.

Court: Charge is reminded to the accused person who is asked to plead thereto;

1ST COUNT

Accused: It is true that I caused bodily injury to the victim namely Isabelle Garanx through careless driving.

2ND COUNT

Accused: It is true that I caused bodily injury to the victim one David Garanx through careless driving.

3RD COUNT

Accused: It is true that I caused bodily injury to the victim namely Joy Garanx through careless driving.

Court: Entered plea of guilty to all counts

B. S. Sivonike, PRM

25/09/2026

Advocate for private prosecutors: Investigation is complete, and since the accused person pleaded guilty to the charge, I pray to read facts of this case to him.

Advocate of accused: I am read to hear facts of this case

Accused: I am ready to hear the same as well

FACTS OF THE CASE ADDUCED BY ADVOCATE FOR PRIVATE PROSECUTORS.

That, names of the accused person are Raphael Ernest Raphael as noted on the charge. That, on 21/01/2025 the accused was employed by a company namely Foresight and Eco Lodge Safari. On 21/01/2025 at about 10:30hrs, the accused drove a motor vehicle with registration number T. 549 AZF make Landcruiser at Ngorongoro Conservation area. That, inside the motor vehicle the accused carried five tourists who are Joy Garanx, David Garanx, Isabelle Garanx, Philippe Garanx and Allesia Congu.

That, the accused drove the said motor vehicle carelessly and without taking precautions as the result he caused bodily injuries to Isabelle Garanx, David Garanx and Joy Garanx. That, soon after the said accident

the accused was charged through Traffic Case No. 000004140/2025 before this court for the offences of causing bodily injuries through careless driving to Philippe Garanx and Allesia Congu. That, on those offences the accused was convicted by the court. That, on Traffic Case 000004140/2025, the court was notified that there were five tourists who are Philippe Garanx, Alllesia Congu, Isabelle Garanx, David Garanx and Joy Garanx in the motor vehicle during the accident. The tourists who were not mentioned in the previous Traffic case are Joy Garanx, David Garanx and Isabelle Garanx.

That, the accused is brought before this court in order to answer offences facing him relating with Causing bodily injury through careless driving to Joy Garanx, David Garanx and Isabelle Garanx who were not mentioned in Traffic Case No. 000004140/2025.

Advocate of private prosecutors: I pray to tender the following documents as exhibits in this case.

1. Affidavits of Isabelle Garanx, David Garanx and Joy Garanx
2. Police form no. 90 of Isabelle Garanx, Joy Garanx and David Garanx
3. PF3 of Isabelle Garanx
4. Hospital Reports
5. Counter affidavit of the accused in Criminal Application no 00001736/2025
6. Proceedings in Criminal Application no. 000017813/2025

7. Ruling of Traffic case no. 00004140/2025

Advocate of accused: I have no objections over the documents noted above to be admitted as exhibits in this case.

Court: The affidavits of Isabelle Garanx, David Garanx and Joy Garanx are collectively admitted as exhibit P1, PF 90 of all victims are admitted collectively as exhibit P2, counter affidavit of Criminal Application no.000017376/2025 is admitted as exhibit P3, Proceedings of Criminal Application no. 000017813/2025 is admitted as exhibit P4, Ruling of Traffic Case no. 00004140/2025 is admitted as exhibit P5, PF3 of Isabelle Garanx is admitted as exhibit P6, Medical reports of which the victims were treated at France and their translations in English language are collectively admitted as exhibit P7

Advocate of private prosecutors: That is all.

Court: The accused person is inquired if he admits each fact adduced by prosecution side, he replies;

Accused: I admit each and every fact adduced by prosecution side to be true and correct.

Court: The accused person admitted every fact adduced by prosecution side to be true and correct.

B. S. Sivonike, PRM

25/09/2026

CONVICTION

Since the accused person pleaded guilty to all counts facing him and he had no objections on the exhibits admitted in this case, this court finds that facts adduced by the advocate for private prosecutors proves all elements constituting these offences which the accused is charged with because the accused admitted to drive a motor vehicle noted on the facts of this case on the date of incident and that the said motor vehicle had five tourists therein and that the private prosecutors are some of the victims who were injured on the accident he caused at the area of incident. Therefore, this court finds that the accused is guilty of all counts facing him basing on his own plea of guilty and he is convicted accordingly.

B. S. Sivonike, PRM

25/09/2026

PREVIOUS RECORDS

I have no previous records of the accused but he is charged on one accident twice.

B. S. Sivonike, PRM

25/09/2026

MITIGATION

The accused pleaded guilty to all counts, by doing so he served court's time. The accused is still young his parents and the country depends on him. The accused had no intention to cause such accident. For that reasons I pray this court to award leniency sentence to the accused person, if possible, the minimum ones.

B. S. Sivonike, PRM

25/09/2026

SENTENCE

In assessing the sentence to be awarded to the accused this court considered that he pleaded guilty to the charge as stated by his advocate. By pleading guilty to these counts, the accused served time of the court to prosecute this case. This court considered as well the aggravating and mitigating factors adduced by both sides in this case at large. The sentence provided by the law under section 75 (2)(b) of The Road Traffic Act, Cap. 168. R.E 2023 for all counts is fine not less than Tshs. 15,000/= and not exceeding Tshs. 50,000/= or on default to serve a term of not less than 2years imprisonment but not exceeding 5years imprisonment. Thus, this court does sentence the accused as follows;

1st count: The accused shall pay fine of Tshs. 20,000/= or in default to serve 2yrs imprisonment

2nd count: The accused shall pay fine of Tshs. 30,000/= or in default to serve 2yrs imprisonment

3rd count: The accused shall pay fine of Tshs. 30,000/= or in default to serve 2yrs imprisonment

B. S. Sivonike, PRM

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Court: These sentences shall run concurrently save for the order of fine.

B. S. Sivonike, PRM

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Right of appeal is fully explained to both parties.

B. S. Sivonike, PRM

25/09/2026



B. S. SIVONIKE, PRM II