

IN THE COURT OF APPEAL OF TANZANIA

AT DODOMA

(CORAM: Mustafa, Ag.C.J., Mwakasendo, J.A. and Makame, J.A.)

CRIMINAL APPEAL NO. 13 OF 1980

B E T W E E N

ATHUMANI KASUKU : : : : : APPELLANT

A N D

THE REPUBLIC : : : : : :RESPONDENT

(Appeal from the conviction of the
High Court of Tanzania at Singida)
(Lugakingira, J.) dated the 28th
day of February, 1980,

in

CRIMINAL SESSIONS CASE NO. 53 OF 1978

JUDGMENT OF THE COURT

MUSTAFA, Ag. C.J.:

The deceased was a brother of the appellant who is alleged to have killed him. There is evidence that the appellant was extremely angered by the deceased who allegedly had accused the appellant of misappropriation of some bridewealth money of a daughter of the deceased.

The appellant had made an extra-judicial-statement which was admitted by the trial judge, after a trial-within-a-trial. We are satisfied that the said statement was rightly admitted. It is a full confession to the murder of the deceased, although it also implicated other persons.

There is also corroborative evidence to support the confession. P.W.1 the appellant's wife had testified that on the material night the appellant got out of bed and left the house saying that he was going to kill the deceased. He armed himself with a 'hengo', a panga like weapon. The deceased could have been killed with a 'hengo'.

Earlier on that day the appellant came across P.W.2, the deceased's daughter and threatened the deceased, and this threat was heard by P.W.2, also by P.W.1.

There is in fact abundant evidence of the guilt of the appellant. The appeal has no merit and is hereby dismissed.

DATED at DODOMA this 21st day of May, 1980.

A. MUSTAFA

AG. CHIEF JUSTICE

Y. M. M. MWAKASENDU

JUSTICE OF APPEAL

L. M. MAKAME

JUSTICE OF APPEAL

I certify that this is a true copy of the original.

(L. A. KYANDO)

DEPUTY REGISTRAR