

IN THE COURT OF APPEAL OF TANZANIA

AT IRINGA

(CORAM: Mustafa, J.A., Mwakasendo, J.A. and Kisanga, J.A.)

CRIMINAL APPEAL NO. 50 OF 1979

B E T W E E N

SAMSON MUBALE APPELLANT

A N D

THE REPUBLIC RESPONDENT

(Appeal from the Conviction of the
High Court of Tanzania at Iringa)
(Mwakibete, J.) dated the 3rd day
of October, 1979,

IN

CRIMINAL SESSIONS CASE NO. 43 OF 1978

JUDGMENT OF THE COURT

MUSTAFA, J.A.:

The appellant was charged with the murder of a girl aged nine years. It is not in dispute that he killed the girl by throttling her. The girl was last seen with him, and the appellant was suspected to have been the perpetrator.

When he was found he admitted to a number of prosecution witnesses that he had killed the girl, but at that time he gave no explanation as to why he did so. When the post mortem was done on the deceased girl, signs of sexual molestation were found. In an extra-judicial statement the appellant alleged that the girl had assaulted him and that it was as a result of that provocation that he killed her. In court he adopted what he had stated in the ~~extra-judicial~~ statement. The judge, in our view, correctly rejected this alleged assault and provocation and we reject it too.

There was some suggestion that the appellant could have been insane because there was a doctor's report to that effect. But on investigation, it was found that the report was based on completely incorrect information. In any event, the judge was justified to conclude that there was not the slightest evidence that the appellant was at any time insane.

- 2 -

The conviction is proper and the appeal is dismissed.

DATED at MBEYA this 4th day of September, 1980.

JUSTICE OF APPEAL

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