

IN THE COURT OF APPEAL OF TANZANIA

AT DAR ES SALAAM

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

CRIMINAL APPEAL NO. 22 OF 1980

B E T W E E N

MUHORO HALFANI APPELLANT

A N D

THE REPUBLIC RESPONDENT

(Appeal from the Conviction and Sentence
of the High Court of Tanzania at Dar es Salaam)
(Makame, J.) dated the 24th day of March, 1980,

in

Criminal Sessions Case No. 30 of 1978

JUDGMENT OF THE COURT

MUSTAFA, J.A.:

P.W.1 was expecting to meet the deceased who was her fiancée. Instead she met the appellant who was carrying a radio, and wearing a pair of shoes or sandals which she recognised as belonging to the deceased. There was also a pair of khanga carried by the appellant which P.W.1 had apparently asked her fiancée to get for her. When questioned by P.W.1, the appellant told her that he had purchased the articles from her fiancée, and that the articles were not the property of her fiancée, but belonged to one Susugu's son-in-law. P.W.1 was not satisfied and reported the matter to the village authorities. P.W.2, the village headman, saw the appellant who repeated to the headman that the articles were given to him by P.W.1's fiancée. When P.W.4 the village secretary questioned the appellant, the appellant led him and others to a spot where P.W.1's fiancée's dead body was. The deceased had been cut to death, apparently by a panga, with seven cut wounds. The cause of death was loss of blood to the brain due to the cut wounds.

The appellant made an extra-judicial statement to a justice of the peace which was admitted in court without objection from the appellant. In it he stated that he met the deceased on the way to the village, and in conversation the deceased allegedly accused the appellant of playing with P.W.1, the deceased's fiancée. A fight started, and the appellant became angry and cut the deceased to death with a panga. The appellant then took the deceased's radio, pair of shoes and pair of khanga.

There could be no provocation even according to the appellant's version of the incident. Accusing the appellant of playing with the deceased's fiancée cannot be provocation for the killing. There could be no self defence either; the deceased apparently was unarmed and there was not the slightest sign of injury suffered by the appellant. It would seem that the appellant deliberately killed the deceased most probably with the intention of stealing the articles the deceased had on him.

We are satisfied the appeal has no merit and it is dismissed.

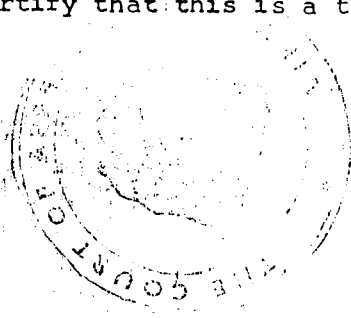

DATED at DAR ES SALAAM this 25th day of February, 1964

A. MUSTAFA
JUSTICE OF APPEAL

Y.M.M. MWAKASENDO
JUSTICE OF APPEAL

R. H. KISANGA
JUSTICE OF APPEAL

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



(G. A. RWELEDERA)
DEPUTY REGISTRAR