IN THE HIGH COURT OF TANZANIA

AT MTWARA

ORIGINAL JURISDICTION

CRIMINAL SESSION CASE NO. 5/2005

THE REPUBLIC

VERSUS

1. SHARIKI HASSAN @ MAULIDI

2. MAHAMUDI IMANI

Date of Last Order: 6/10/2006

Date of Judgement: 2/11/2006

JUDGEMENT

SHANGALI, J.

The accused persons SHARIKI S/O HASSAN @ MAULIDI and MAHAMUD S/O IMANI who shall be refearred to in this judgement as first and second accused persons respectively stand charged with the offence of Murder contrary to section 196 of the Penal Code. It has been alleged by the prosecution/Republic that on or about 21st April 2003 at Mwanoma village within Masasi District the aforementioned accused persons jointly and together murdered one MOHAMED S/O ABDALLAH @ NDIRIMWE.

All the accused persons denied the charge and the prosecution side advocated by Ms. Shio, Learned State Attorney called five witnesses to prove their case. On the other side, the defence side advocated by Mr. Mlanzi, Learned advocate elected to give a sworn defence by the accused persons and called two additional witnesses to prove the defence of ALIBI raised by the second accused person.

During the preliminary hearing conducted on 28th July 2005 it was agreed as matters not in dispute by both parties that the names and residences of the accused persons are correct; The postmotem report of the deceased was admitted as exibit PI, while the PF3 of the deceased was admitted as exibit P2 and the sketch plan of the scene of crime was admitted as exibit P3.

In this case and according to the prosecution evidence there is no dispute that the deceased and one SALUM MOHAMED @ Doctor (PW5) were living at Mripa village, Rahaleo Hamlet. On 21st April 2003 the two were suspected and accused by their fellow villagers, for stealing maize from Mzee MKONOKWA's house situated at Rahaleo. On the very day PW5 was arrested at about 7.00 pm by the village Militiamen SALUM MATAULA and SAIDI UMILA and straight taken to the house of the village chairman SALUM HAMISI BUSHIRI MATAULA. Later on, the deceased was arrested by one Diego Umila and Mohamed Imani (2nd accused) and also taken to the house of the village Chairman. Later it was resolved that the two suspects should be taken to the complainant, Mzee MKONOKWA who was at that time staying in the house of his senior wife situated at Mnonia village. The two suspect's hands were back-tied with ropes in order to be taken to the complainant.

Among the people who marched the rope tried suspects amid with beatings and boos against the suspects were Diego Umilla, Saidi Umila, Mwanahawa Salum Matinga @ Mama Visa who is the wife of second accused and the step doughter of the complainant; Binti MKOHORA who is the junior wife of the complainant and the accused persons.

It was during that night journey when the deceased was seriously assaulted twice. At first with burning charcoal and ashes alleged to have been poured on his back by the second accused causing him to suffer severe burn wounds and secondly with a panga when he was viciously cut on the head allegedly by the first accused causing him to suffer severe head cut wound and bleeding.

The basic question is whether it was the accused persons who assaulted the deceased to that extent and caused his untimely death.

Going by the evidence of PW5 who was one of the maize theft suspects together with the deceased, he stated that they were tied with ropes and assaulted while on the way to Mnonia village. He testified that while on the way, the second accused Mahamudi Imani brought burning charcoal and ashes and poured them on the back of the deceased who was

tied with ropes. The deceased cried and winced out of pain saying "Mahamudi kwa nini unanifanyia hivyo" PW5 testified that, following that incident, the junior wife of the complainant called Binti NKOHORA who witnessed that assault warned the second accused not to cause other trouble. PW5 stated that later on, while on the way one Baba Nduga approached them with a panga and managed to cause minor injuries on several parts of their bodies. He stated that they were then taken to the house of deceased which was on the way to Mnonia. On reaching there the militiaman fetched about one and half kilos of Maize from the house of the deceased to be treated as exibit against them.

PW5 testified further that there was allegations that he had sold the stolen maize to one Binti Mastoka (PWI) and therefore when they reached at the house of Binti Mastoka, the marching mob stopped at that house and the junior wife of the complainant Binti Nkohora and Diego Umila forced Binti Mastoka (PWI) to open the door and surrender the maize sold to her by him (PW5). According to the evidence of PW5, Binti Mastoka (PWI) readly admitted that she had purchased maize from him, and brought some maize from her house which were then mixed with the maize seized from the house of the deceased. PW5 stated that after that exercise the whole maize was divided into two equal potions and each suspect was forced to carry his potion as exibit. PW5 testified that, the deceased refused to carry his position and suddenly the first accused cut him with a panga on his head. The deceased went down groaning with pains saying, "Shariki unaniumiza" PW5 claimed that, at that juncture Binti Mastoka (PWI) who witnessed the assault condemned the first accused for that vicious attack and warned him not to assault the deceased like that.

PW5 testified that from there, their journey continue accompanied with beatings and insault songs from the mob, the militiamen and accused persons. He said that on the way they met a group of young people at a junction who invaded and started to beat them up. He stated that the whole matter happened in the night and the beatings were intense to the extent that there was time he attempted to escape but he was re-arrested and marcilessly given nine slashes of the cane. PW5 testified that when they finaly reached at the house of the complainant, (NKONOKWA) he received

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them and decided to protect them in his house because there were people who wanted to kill them.

PW5 testified to the effect that on the next day the complainant refused to take them to the police Station and instead decided to impose his own punishment on them. PW5 claimed that he was ordered to cultivate one acre of Cashewnut farm belonging to the complainant while the deceased's farm was confiscated by the complainant, Mkonokwa.

Another important evidence is that of PWI MWESU HUSSEIN MASTOKA referred to as Binti Mastoka. She testified that in the morning of 2 1/4/2003 at her homestead PW5 approached her and sold some maize to her. That, later in the midmight she was visited by a group of people who ordered her to open the door. Then she lit the fire to get some light and opened the door. Suddenly the wife of Nkonokwa entered and ordered her to get out. PWI claimed that when she went out she saw Shariki Hassani (x 1st accused), Saidi Umila, Diego Umilla, Mohamoud Imani (2nd accused) and several people from the village. PWI testified that she was able to identify those people because they were the ones who questioned her in that night. She stated that they asked her on whether she could identify the two suspects tied with ropes and she replied in affirmative telling them that PW5 was the very person who sold some maize to her in the morning while the deceased was the son of his uncle and she insisted that the deceased was not in the company of PW5 during the sale transaction.

PWI testified to the effect that upon that revelation the wife of the complainant Binti Nkohora entered in her house and picked some maize which was then divided into two potions and the captors attempted to force each suspect to carry his potion as exhibit. PWI stated that at that point there was tumultuous shouts of thieves! from the mob and suddenly Shariki Hassani (the xx first accused) cut the deceased with a panga on his head. PWI complained that seeing that agly scene she ordered the accused persons and Binti Nkohora to go away with their fracas. She said that the accused persons and their mob went away and later she was informed that the deceased had died.

PW2, Abdallah Ndilimwe @ Mkumiya, the physical father of the deceased testified how his son (the deceased) was brought to him on 22 April 2003 helplessly with a serious cut wound on his head and burn wounds on his body. He informed this Court that on questioning the deceased, he narrated to him on how he was arrested by the accused persons and militiamen and severely beaten for being suspected to have stolen the maize of Mzee Nkonokwa. PW2 testified that the deceased informed him that he was burnt by the second accused person Mahmud Imani and cut on his head by the Shariki Hassan, the 1st accused. PW2 claimed that the deceased also mentioned the wife of the second accused called Mama Visa; Diego Umilla and Saidi Umilla as part of the people who assaulted him.

PW2 testified that, after getting that information he decided to take his son (deceased) to Mangaka Police station where he reported the matter and obtained PF.3 (Exibit P2) for the deceased. According to his evidence the deceased was duly treated at Mangaka Hospital and later his (deceased's) statement was recorded by the Police (Exibit P6 -dying declaration). PW2 stated that from that time the deceased proceeded with his treatments but kept on complaining of severe headache and his health was quickly deteriorating and finaly died on 6th July 2003.

It is, also the prosecution evidence that following the PW2's reporting the matter at the Police station the accused persons were arrested and charged with the offence of causing grievious harm. Later on and consequent to the death of the deceased the accused person's charge was changed to the present one.

There is also the evidence of PW3, WASIA S/O TWALIB, the brother in-law of the deceased who received the deceased and kept him in his house at Mangaka while attending his treatments at Mangaka Hospital. PW3 testified that when the deceased died his major wounds on the head and back burns were not completely healed but they were no more bleeding. Witness stated further that what was apparent on the deceased was the quick deterioration of his health.

PW4, MOHAMED NDILIMWE is the physical brother of the PW2. His testimony is the same as that of PW3 because he was staying at Mangaka where the patient (deceased) was undergoing treatment.

In their defences, the first accused categoricaly denied having ever assaulted the deceased. In his short testimony he claimed that on the material date he was in his house. He claimed that all the prosecution witnesses were telling lies against him because they were enemies. During the cross-examination he claimed that he does not know PW1 and denied to have given statement at Police station but later he changed and claimed that his statement was recorded at Police Station but never read over to him. He concluded that what is in his Police statement was invented by the Police.

The second accused raised a defence of ALIBI claiming that on the time of incident he was not at the scene of crime. It was the second accused stance supported by evidence of DW3 and DW4 that in the material day and time he was at Nangomba village where he went for treatment of his child at Nangomba Dispensary. He stated that he went to the said village with his wife (DW4) on 20th April 2003 and took their child to the Dispensary on 22nd April 2003. DW3, the Nursing Assistant from Nangomba Dispensary stated that on 22nd April 2003 he saw the second accused at the said Dispensary and treated his child as shown in the Dispensary chit duly filled by him (PW3). On the other hand DW4, the wife of the second accused and the step doughter of Mzee Mkonokwa testified that he accompanied her husband to Nangomba village on 21st April 2003 and later took their sick doughter to Nangomba Dispensary on 22nd April 2003. During the cross-examination she conceeded that the said child was not admitted at the Dispensary and that the treatment to the child was completed everyday before noon. She also stated that her child started to fall sick on 21st April 2003.

Briefly that was the evidence of the prosecution and defence sides.

In his ample submission, Mr. Mlanzi, Learned advocate for the accused contended that the most important issues to be resolved are; one, whether there is cogent prosecution evidence to prove that it was the first accused who assaulted the deceased with a panga and whether there is enough evidence to prove that it was the second accused person who poured burning charcoal and ashes on the body of the deceased; two, whether the accused persons were adequently identified taking into consideration that the incident happened in the dark night; and third whether the death of the deceased was caused by the said wounds and not the mob-justice administered against him.

Ms. Shio, Learned Attorney submitted that there is ample evidence of PW5 that it was the second accused person who poured the burning charcoal and ashes on the back of the deceased and immediately the deceased winced and groan out of pain saying "Mahamudi kwa nini unanifanyia hivyo". This incident was witnessed by the wife of the complainant, Binti Nkohora who warned the second accused not to cause other trouble. Mr. Mlanzi contended that the second accused was not properly identified as the person who poured the burning charcoal on the back of the deceased because at that time it was dark and there was commotion of people.

Like the lady and Gentlemen assessors, the evidence of PW5 & PW2 and the whole circumstances of the case convinces me that it was the second accused person who poured the burning charcoal and ashes on the back of the deceased leaving him with severe burn wounds. The evidence of PW5 which I have no reason to doubt indicate that the second accused was actively in the group from the very begging of their arrests. Therefore it was very possible for him (PW5) to see and identify one of their captors assaulting his fellow suspect, the deceased. The deceased and PW5 were tied with ropes, kept together under the mercy of their captors who were apperently very close to them, quarding them, interrogating them and beating them up. To crown it all they were familiar to each other.

I also agree with Ms. Shio that it was the first accused person who assaulted the deceased with a panga causing him to suffer a severe head

wound. The evidence of PWI and that of PW5 tallies in the material aspects. According to the evidence of PWI when she opened her door she was able to see and identify the suppects who were tied with ropes; the accused persons who happened to questioned her; the wife of the complainant Binti Nkonokwa; Diego Umilla and other villagers. The witnesses clearly testified that when she was asked on whether she knew the suspects and the issue of maize she replied in affirmative and narrated to the captors how PW5, sold the maize to her during the day. During her testimony and cross-examination she insisted that ~~kkx~~ she was able to identify the accused persons because they are fellow villagers who are familiar to her and were the ones who questioned and interrogated her in that might. It was the evidence of PWI that she witnessed the first accused assaulting the deceased with a panga on the head when the mob was shouting "Thieves! thieves!". PW5 who was roped with the deceased also witnessed the incident and testified on how, PWI was annoyed with the first accused's act to the extent of ordering them to go away with their fracas.

In my view the guidelines on proper identification inunciated in the case of WAZIRI AMANI VS. R. (1980) TLR 257 were fulfilled. PW5 had more than ample time of observing their captors (accused persons). They were together all the time in that fateful journery from Rahaleo hamlet to Mnonia village. Likewise PWI was questioned by the same accused person in that might about the maize theft suspects and there is evidence that PWI and PW5 were familiar to the accused persons even before the incident and that is why when the 1st accused person assaulted the deceased, the later winced and groan out of pain calling the first accused name "Shariki unaniumiza". The same happened when the deceased was assaulted by the second accused. He cried out of pain calling the second accused's name "Mahamudi kwa nini unanifanyia hivyo". Therefore although the whole matter happened in the night there is evidence that the accused persons were duly identified in that prolonged and unpleasant night procession. There is evidence also that even the captors were able to identify their victims and conducted interrogation

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to their witnesses (like PWI) in the same night because it was not a dark night. To conclude this issue of identification let me reproduce what the Court of Appeal said in the case of PHILLIP RUKAIZA Vs. R. Criminal App. No. 215 of 1994 - Mwanza Registry (Unreported). The Court said,

> "...it is not always impossible to identify assailants, even violent ones, even very at night, and even where the victims are terrorised and terrified. It is because of this truth that even bandits who scalter terror and indulge in barbaric acts sometimes take the precaution of disquising themselves by various artifices. The evidence in every case where visual identification is what is relied on must be subjected to careful scrutiny, due regard being paid to all the prevailing conditions to see if, in all the circumstances, there was really sure opportunity and convincing ability to identify the person correctly and that every reasonable posibility of error has been dispelled..."

I have no hesitation to wholy adopt that decision in this present case.

Regarding to the dying declaration in the evidence of PW2, I also join hands with the Learned State Attorney that it was actually made because it tallies with the evidence of PW5 and even PWI. It is a rule of practice that evidence of dying declaration requires carroboration before it can be acted upon. In the present case the dying declaration in the evidence of PW2 was adequently corroborated by the evidence of PW5 and partly by that of PWI - see the cases of R Vs. MAGILIGITA LUMIJE (1974) TLR 57 and the case of R. Vs. MOHAMED SHEDAFFA AND OTHERS (1984) TLR - 95.

I must state here that I was not very confortable with the way prosecution side tendered the dying declaration statement of the deceased in Court as exibit (Exibit P6). Although there was no objection raised by the defence side the prosecution ought to have stated the reasons which made the police Officer D.8666 PC Thomas who recorded the statement unable to appear before the Court and produce it. It was not enough from the prosecution side to lament that they have failed to trace the Police Officer who recorded the statement; it

was incumbant upon them to give details of efforts employed to get him and where he was if he is still working in the Force. Dying declaration is not a document to be tendered, admitted and acted upon carsually. In the case of R Vs. RAMAZAN BIN MIRANDU (1934) EACA 107, also cited in the case of R.V, MOHAMEDI SHEDAFFA & OTHERS (Supra) it was held that too great value should not always be attached to the Dying Declaration and that Court should receive them with caution.

All in all, I am confident that even without the present dying declaration Exibit P6, there is ample evidence against the accused persons as demonstrated above. Nevertheless, since there was no objection from the defence side when it was tendered, this Court is perfectly entitled to rely on the said Exibit P6 as a truthful, accurate and reliable piece of evidence. As a rule of practice of the requirement of corroboration, Exibit P6 is duly corroborated by the evidence of PW5 and that of PWI.

It is pertinent also to note here that according to the Court record the same dying declaration statement of the deceased had been tendered during preliminary hearing and admitted as Exibit P4 for identification purposes only; although it should have been actually marked IDI (Identification Document I). That statement was so marked following the defence councels request that the same should be proved by the Police Officer who recorded it, but since the same defence counsel has now decided to throw away the sponge, the statement was correctly re-admitted as exibit P6.

There is no dispute in this case that PWI, PW2, PW3 ahd PW4 are close relatives of the deceased. In practice, the Court is not encouraged to give credence to such evidence without warning itself of the dangers thereof because there is a possibility of the relatives to exaggerate evidence and fix the guilty of the accused persons. In order to avoid that situation it is stance of the law that such evidence must be corroborated with other independent evidence as propounded in the case of SAIBURAN VR (1981) TLR 265 or the Court should

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carefuly examine and serutinize such evidence before accepting it as the basis of conviction. In the present case the evidence of PWI, PW2, PW3 and PW4 is coexistently corroborated with the evidence of PW5 who appeared to be very credible witness and not a relative of the deceased. On the other hand, having carefuly examined and scanned the evidence of PWI, PW2, PW3 and PW4, I am satisfied that the witnesses were credible and their evidence was not partisan evidence.

Another question which I admit to have exircise my mind is whether the death of the deceased was caused by the said wounds and not by the mob justice administered against him in that fateful night. According to the postmortem examination report Exibit PI the cause of death was due to "bleeding and head cut wound." If therefore we go by Exibit PI the cause of death was not due to the burn wounds caused by the second accused person. From the evidence the deceased died on 6th July 2003 and the post moterm examination was conducted on 7th July 2003 while the deceased was assaulted on 21st April 2003. That means the deceased succumbed to his death after a period of 76 days from the date of actual assault.

Mr. Mlanzi submitted that according to the evidence of PW3 and PW4 who were taking care of the deceased while undergoing treatment, the deceased's wounds had healed and that during his death the wounds were no longer bleeding. He further argued that there was no evidence that there was a fracture on the deceased's head and it is unlikely for a person to keep on walking with a fractured skull for about 3 months. The defence counsel requested the Court to treat Exibit PI with caution and reminded the Court that it is not forced to follow the Doctors opinion where there is reasonable doubt. He supported his proposition with the case of HILDER ABEL VS. R (1993) TLR 246.

Ms. Shio, Learned State Attorney conceeded that the cause of death according to Exibit PI was due to "bleeding and head cut wound" but contended that since there was common intention between the accused persons to kill the deceased, both should be accountable for the death of the deceased. She further submitted that there is evidence from PW3 and PW4 that the head cut wound did not heal completely and that

the deceased health kept on deterionating daily and eventually succumbed to his untimely death.

There is ample evidence that the said head cut wound was still under treatment and that it had not yet healed completely but it was no longer bleeding. The deceased was persistently complaining of head ache and his health was quickly deteriorating. The question is whether the subsequent death of deceased was due to "bleeding" as indicated in the Exibit PI or that the deceased became anaemic as a result of acute loose of blood due to the head cut wound inflicted somedays back or that the wound became Septic. I agree that the post mortem examination report should have come out with more elaborative Medical expert opinion on the death of the deceased. Nevertheless, whether the cause of death was caused by "Bleeding" or anaemia or the wound turned septic there is evidence that the major souce of the deceased's death was the unjustifiable severe head cut wound inflicted by the first accused person. I am also of the view that the efforts by the cause for the defence side to challenge at this stage the validity or accuracy of the Exibit PI which was duly tendered and admitted during the preliminary hearing as undisputed document is with respect untenable.

Regarding to the extent of participation of the second accused and the issue of mob-justice belaboured on the deceased person, there is evidence that the deceased and PW5 were also victims of mob justice in that fateful night when they were assaulted by several people including Baba Mduga and the militiamen. In my view those people were illegaly punishing the suspected thieves but the acts of the accused persons went beyond a reasonable way of punishing suspected maize thieves. Their barbaric acts against the deceased amply demonstrated that they had formed a positive intention to kill the deceased. Pouring burning charcoal and ashes on the back of a person whose hands were back-tied with ropes and cutting him with a panga on his head, the most vulnerable part of the body, causing him to suffer a serious injury on the right side of parietal area measuring 6 cm long by 1cm width and depth up to the skull causing fractures of the skull is nothing but clear manifestation to cause death or grievious body harm.

In the case of ALLY Z. SHENYAU Vs. R. Cr. App. No. 27 of 1993 - CAT - ARUSHA REGISTRY (Unreported) it was held that according to the law, in arriving at a conclusion as to whether malice afforethought has been established, the court must consider the weapon used, the manner in which it was used and the part of the body injured. See also the case of MOSES MICHAEL @ TALL VS. (1994) TLR 195 (CA).

In my opinion where a group of people adminsteres mob justice against a person and causes his death, any person subsequently arrested and properly identified to have thoroughly participated in the assault of the deceased and causing his death is guilty of murder. It is only where there is doubt on the evidence against the accused that he intended to kill or cause grievious bodily harm to the deceased when the Court may find him guilty of mansloughter. This position of the law was echoed in the case of AUGUSTINO MGANYA & OTHERS VS. R (1994) TLR 16 (CA).

I entirely concur with Ms. Shio when she submitted that the accused person had a common intention to kill the deceased. In law, it is not necessary for the accused persons to arrange and plan their evil common intention prior to the attack because it can develop in the cause of the act and indeed it may be infered from their extent of participation and actions. See the case of GODFREY JAMES IHUYA Vs. R (1980) TLR 197 (CA).

Comming to the accused person defences, I have labouriously scrutinise their defence versions. The first accused categorically denied to have committed the offence and claimed that on the material day he was at his house. He claimed that all the prosecution witnesses had perjured against him. He went to the extent of claiming that he did not know PWI but later changed his version during cross-examination and claimed that PWI pejured against him because of their previous misunderstandings between them. He was not able to pin point the said misunderstandings but the question is, if they were not known to each other how could they have hatched a misunderstanding. In addition no single prosecution witness was cross-examined by defence on any

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existence of enemity between them and accused person. That means the allegation of enemity was nothing but an afterthought. Be as it may, it is not the duty of the accused person to prove his innocence or the truth of his defence. His duty is only to raise reasonable doubt on the prosecution evidence. At this juncture there is no doubt let alone reasonable one which has been exibited by the first accused person to shake the prosecution evidence against him.

Mr. Mlanzi, Learned Advocate for the second accused stated that the second accused raised his defence of ALIBI accordance to the procedure. That the second accused testified how he went to Nangomba village and later Dispensary for treatment of his sick child. The learned advocate argued that it was the duty of the prosecution to investigate and disprove the second accused's defence of ALIBI and not the duty of the defence to prove that defence. Indeed the law is clear that the accused person is not required to prove his ALIBI; it is enough for him if the ALIBI raises a reasonable doubt as stated in the case of ALLY SALEHE MSUTU VS. R (1980) TLR (C.A).

However, where the evidence submitted by the accused person on ALIBI is inconsistence and contradictory, it can not be said a reasonable doubt has been raised to shake the prosecution evidence even if the prosecution has failed to conduct the said investigation on the defence. In this case the testimonies of the second accused and his wife DW4 on the defence of ALIBI are contraductory in the sense that while the second accused claimed that he went to Nangomba village on 20/4/2003, DW4 claimed that they went there on 21/4/2003. Furthermore, according to the prosecution evidence the offence was committed on 21/4/2003 after 6.00 pm while the child of the second accused was treated on 22/4/2003 in the morning. In general, taking into consideration the circumstances of the case and the weight of the prosecution evidence against the second accused, the ALIBI raised has no trace of truth. It is therefore rejected as a concocted story.

In my summing up to the Lady and Gentlemen assessors they all gave a short but remarkable recapitulation of evidence and unanimously returned a guilty verdict against all the accused persons insisting that there is overwhelming evidence from credible witnesses that the accused persons unlawfully killed the deceased person. On the basis of the reasons I have attempted to enunciate above I have no hesitation to join their wisdom.

In conclusion, I am left with no doubt whatsoever that both the accused persons had no justification whatsoever to assault the deceased in that owful manner and caused his death. I am satisfied that the charge of murder contrary to section 196 of the Penal Code laid against the first and second accused persons has been proved beyond reasonable doubt.

In the final result I find both accused persons guilty of murder as charged and convict them accordingly.

M.S. Shangali
JUDGE
2/11/2006.

Ms. Shio (SA) (Previous conviction)

The accused persons are first offenders. There is no previous record against them.

Mr. Mlanzi (Adv) (Mitigation)

Both the accused persons are first offender. They are still young people and have been in custody for about 3½ years now. They are married.

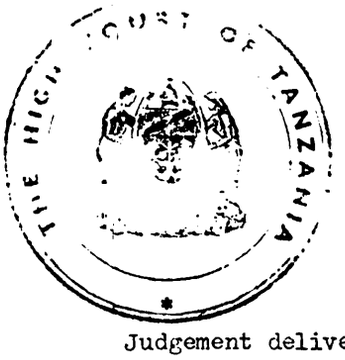
SENTENCE

There is only one sentence prescribed by the law for any person convicted for murder. That is to suffer death by hanging. I hereby sentence both of you SHARIKI s/o HASSAN @ MAULIDI, the first accused and MAHMUDI S/O IMANI, the second accused to suffer death by hanging.

M.S. Shangali
JUDGE
2/11/2006.

Court:

Right of appeal explained in terms of section 323 of the Criminal Procedure Act, 1985. Assessors thanked and Excused.



M.S. Shangali
JUDGE
2/11/2006.

Judgement delivered todate 2/11/2006 in the presence of Ms. Shio, Learned State Attorney for the Republic and Mr. Mlanzi, Learned Advocate for the accused persons.