

IN THE HIGH COURT OF TANZANIA

AT TABORA

(Tabora Registry)

CRIMINAL SESSIONS CASE NO. 68 CF 2006

THE REPUBLIC

VERSUS

SHIKUMBI s/o MALEMBA

P R O C E E D I N G S

26th Oct., 2006

High Court Sessions at Kahama

Date : 26/10/2006

Court : Hon. R.E.S. Mziray, J.

Mr. Mulwanbo assisted by Mr. Zacharia: State Attorney for the
Republic.

Accused (name) 1. Shikumbi s/o Matemba) is present under
custody and represented by Mr. Kayaga,
Advocate.

Interpreter Mrs. N. Changala English into Kiswahili and vice
versa.

Notice of trial on information for Manslaughter contrary to
section 195 of the Penal Code was duly served on the accused,
now before the Court on 26/10/2006.

Information is read over and explained to the accused in his
own language and he is required to plead thereto.

Plea :

It is true.

Entered as a plea of "guilty" to the charge.

R.E.S. MZIRAY

JUDGE

25/10/2006

Mr. Mulwambo :

My Lord, the following are the facts of the case. On 26/5/2005 at Busulwanguku Village in Kahama District, the accused caused the death of the deceased Masende Mungeja. The deceased had stomach problems and the accused was the one who was treating him.

Before the death of the deceased, on 25/5/2005 the deceased experienced some stomach problems and called the accused who was a local medicineman to treat him. The treatment took place on 26/5/2005 by giving the deceased some medicines to mix in his porridge. The deceased did not improve. His condition worsened. He started vomiting and purging. The deceased died after three hours.

The body of the deceased was medically examined. It was found that cause of death was due to local herbs poison. Samples of the deceased specimen were taken for further examination to the Government Chemist. On 11/8/2005 the Government Chemist gave report which confirmed that the deceased died of poisoning. From that evidence we opted to charge the accused of manslaughter contrary to section 195 of the Penal Code.

I tender the Government Chemist report and Postmortem report as exhibit.

R.E.S. MEIRAY

JUDGE

26/10/2006

Mr. Kayaga :

My Lord, we have no objection.

R.E.S. MEIRAY

JUDGE

26/10/2006

Court :

Chemist report and postmortem report collectively admitted
as exhibit FI.

R.E.S. MEIRAY

JUDGE

26/10/2006

Mr. Mulwambo

My Lord, that is all.

R.E.S. MEIRAY

JUDGE

26/10/2006

Accused:

My Lord, the facts are correct.

R.E.S. MEIRAY

JUDGE

26/10/2006

Court finding :

Accused convicted as charged.

R.E.S. MEIRAY

JUDGE

26/10/2006

Allocutus,

Mr. Mulwambo,

My Lord, the accused is a first offender.

R.E.S. MEIRAY

JUDGE

26/10/2006

Mr. Kayaga.

My Lord, the accused is pleading for leniency. He is a first offender. He pleaded guilty something showing remorse. He has also served the precious time of the Court and expenses. The Republic would have incurred to call witnesses. The accused has been in custody for one year and five months now. This was a bad luck which even the accused cannot make explanation. The accused have applied similar medicines to the deceased on previous occasions but nothing bad which happened. The act was not intended. He therefore moves for leniency.

R.E.S. MEIRAY

JUDGE

26/10/2006

SENTENCE.

The accused administered local medicines to the deceased which ended to be poison. It would seem there was no proper specification as is normally the case to local medicinemen when making their treatments. Such acts should highly be discouraged. I was in a move to inflict a severe sentence but I have changed my mind after considering the mitigating factors advanced. I therefore sentence the accused to five years imprisonment.

R.E.S. MEIRAY

JUDGE

26/10/2006

Right of appeal fully explained.


R.E.S. MEIRAY

JUDGE

26/10/2006