

IN THE HIGH COURT OF TANZANIA

AT DAR ES SALAAM

ORIGINAL JURISDICTION

CRIMINAL SESSIONS CASE NO. 24 OF 2005

REPUBLIC

VERSUS

MAGANTIRA PAULO

19/4/2006

Coram: Mlay, J.

For the Republic: Kongolo

For the Defence: Rweyongeza

Accused –

C.C.: Aza

The charge is read over and explained to the accused person in a language he understands and asked to plead thereto:-

Plea of Accused: It is true

Mr Rweyongeza: The accused in offering a Plea of Guilty to the offence.

Court: Entered as a Plea of Guilty to Manslaughter c/s 195 of the Penal Code.

(J.I. MLAY)

JUDGE

19/4/2006

F A C T S

Mr Kongola State Attorney:

The accused Magantira s/o Paulo stands charged with Manslaughter c/s 195 of the Penal Code.

On 22/5/2004 the accused and the deceased went to the Pombe Shop to drink a local brew where they drank the local brew

and then returned to their home to sleep. While at their home where they shared a room, the accused and the deceased started to quarrel with the accused over who should cook dinner for them. A fight ensued and a neighbour in the next room came to settle the fighting. Later the neighbour heard a fight again in the room occupied by the deceased and the accused and heard accused crying out; **JULIUS YOU ARE KILLING ME.** The neighbour, one Bernard Julius saw the accused running away from the room and when the neighbour entered the room, he found the deceased already dead. The deceased's body was examined by a doctor who established that cause of death was due to being cut on the head with a panga. The Post mortem report is tendered in evidence.

Mr Rweyongeza: No objection

Court: Postmortem Report is admitted as Exh. P1

Mr Kangolo: The accused was arrested and he made a cautioned statement in which he admitted to have fought with the deceased and cut him with a panga. I pray to offer the Cautioned Statement in evidence.

Mr Rweyongeza: We have no objection

Court: Cautioned Statement of Accused is admitted as Exh. P.2.

Mr Kangola:

The accused was taken to the Justice of the Peace where he made an extra Judicial Statement, in which he admitted to have fought with the deceased who had hit him with a piece of wood and the accused picked up a panga thinking it was a piece of wood and hit the deceased causing the injury. I pray to produce the Extra Judicial Statement.

Mr Rweyongeza: No objection

Court: Extra Judicial Statement of Accused is admitted as Exh. P
3

Mr Kangolo: The accused was charged with the present offence to which he has pleaded guilty. That is all.

Accused: I have heard the facts given by the State Attorney. I
admit them.

Order: The accused is convicted of the offence of Manslaughter
c/s 195 of the Penal Code, on his own plea of Guilty.

(J.I. MLAY)

JUDGE

19/4/2006

MITIGATION

Mr Rweyongeza:

The accused is 56 years old and this is his first offence. Since the accused was arrested, he admitted the offence before the police and also before the Justice of Peace. Today before this honourable court he has also pleaded guilty. This shows that the accused has remorse for the offence which he has committed. The accused regrets to have caused the death of the deceased who is the accuseds cousin whom the accused had invited to live with him. The quarrel ensued while the accused and the deceased were drunk. The

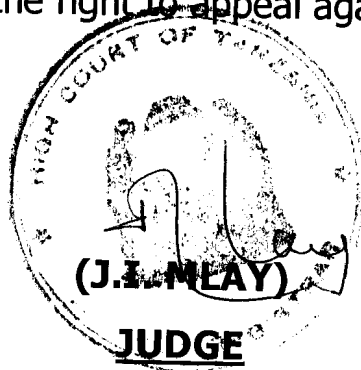
facts show that although the accused was by then 52 years old and the deceased only 32 years old, the deceased who was younger did not show respect to the accused by ordering the accused to cook for them. The accused is married and has four children who depend on him. The accused has also contracted a coughing disease. I pray that these factors to taken into consideration in sentencing the accused. That is all.

SENTENCE

The accused caused the death of the accused by cutting the deceased on the head with a panga. The accused did the act after a quarrel had ensued between the accused and the deceased as to who should cook the meal for the night after the two of them had come from a drinking pombe at a Pombe shop. According to the facts, it is the deceased who first hit the accused with a piece of wood and the accused picked up the panga believing it to be a piece of wood and hit the deceased on the head, causing him the injury which resulted the death of the deceased. The quarrel was senseless

and the death of the deceased a tragedy which could have been avoided. Considering that the accused is a first offender and he has readily admitted the offence since his arrest and today before the court, a degree of leniency needs to be shown. All considered the accused is sentenced to three years imprisonment.

The accused has the right to appeal against the sentence.



19/4/2006