

**IN THE HIGH COURT OF TANZANIA
AT DAR ES SALAAM**

CRIMINAL SESSIONS CASE NO. 78 OF 2000

REPUBLIC

VERSUS

KESSY JOSEPH PETER

22/4/2008

Coram: Mlay, J

For the Republic – Sinda/Shen Kato/ Shinyangala/
Masunga for

For the Defence – MR. Masaka for

Accused- Present

Assessors- 1st

2nd

3rd

CC: Aza

Information read over and explained to the accused person in Kiswahili and he is required to plead thereto.

Plea:

It is not true it was by bad luck.

Mr. Masalla:

The accused is offering a plea of guilty to the lessor offence of Manslaughter c/s 195 of the Penal Code.

Ms Saiga:

The prosecution will accept a plea of guilty to the lessor offence of Manslaughter.

Court:

Entered as a plea of guilty to the lessor offence of Manslaughter c/s 195 of the Penal Code.

FACTS

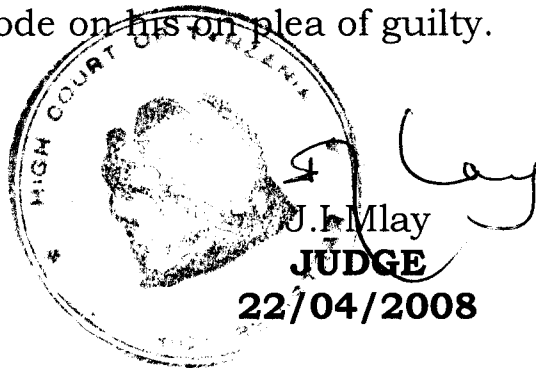
Ms. Saiga: The accused has pleaded guilty to the lessor offence of Manslaughter c/s 195 of the Penal Code. On 12/11/98 there was a misunderstanding between the deceased and the accused Kessy Joseph Peter. The accused and the deceased were lovers. The deceased told the accused that on that day some people would come to beat up the accused in order to make him end the relationship with the deceased. At 12:05 midnight, the deceased left the house of the accused and went to the house of Michael Sangaya where there were some other people present including one Osea Aroni who were carrying an a conversation. The accused came to the house of Michael Sangaya where he found the deceased and the other people who were present there. The accused asked the

deceased if it was really her who was there and the deceased said yes. The accused got very angry and hit the deceased with a pistle (mchi wa kutwangia) and then ran away. After running, the matter was reported to the police who issued a PF 3 for treatment of the deceased. The deceased was taken to Muhimbili Hospital where she died on the same day. The body of the deceased was examined by a doctor and the postmortem report showed that the deceased died of Head Injury. The Postmortem Report was produced as Exhibit P1 during the Preliminary Hearing. The accused was arrested and admitted to have caused the death of the deceased. The accused was charged with the offence of murder to which he has pleaded guilty to the lessor offence of Manslaughter.

Accused: I HAVE HEARD THE FACTS. That is what happened. I was angry.

Order:

The accused is discharged of the charge of murder and is instead convicted of Manslaughter contrary to section 195 of the Penal Code on his plea of guilty.



J. L. Mlay
JUDGE
22/04/2008

Mr. Sinda:

The accused has no previous conviction.

MITIGATION

Mr. Masaka:

The accused has readily pleaded guilty to Manslaughter without wasting the courts time. The accused has been in custody for ten years and he regrets his action.

SENTENCE

The accused caused the death of the deceased by hitting her on the head as the result of a jealous rage. The conduct of the deceased of telling the accused that people would come to beat him up to end their relationship and finding the deceased with a group of people after leaving the accused's house at midnight may have justifiably be a reason for the accused to be angry, but it does not justify the taking of the deceaseds life. Considering that the accused has been in custody for ten years and that he is a first offender, the accused is sentenced to six years imprisonment.

The accused has the right to appeal against this sentence to the Court of appeal of Tanzania.

