



**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**IN THE DISTRICT REGISTRY OF BUKOBA**

**AT BUKOBA**

**CRIMINAL SESSIONS CASE NO 1 OF 2017**

**THE REPUBLIC**

**VERSUS**

**TRAZIAS S/O EVARISTA @DEUSDEDIT S/O ARON**

**JUDGMENT**

*06/03/2020 & 20/03/2020*

*Kairo, J*

The accused person, namely Trazias s/o Evarista @ Deusdedit s/o Aron stands charged with the offence of murder c/s. 196 of the Penal Code, Cap. 16 RE. 2002. It was alleged that on 22/11/2009 about noon hours at Bumpande Village within Muleba District in Kagera Region did murder

one Regina w/o Selestine. The accused person pleaded not guilty to the charge.

The prosecution side was represented by Mr. Haruna Shomari, the learned State Attorney while the defence case was represented by the learned counsel Advocate Danstan Mujaki.

It is not in dispute that Regina w/o Selestine is dead and that she met a violent death. This was confirmed by the evidence of all of the prosecution witnesses who told the court that the deceased body had multiple injuries on the head, neck and shoulder. This is further confirmed by the report on the postmortem examination tendered as exhibits "P2". The report states that the death was due to multiple cut wounds and severe hemorrhage. It further states that:

*"the dead body was lying on back position in the sitting room, sustained with multiple big cut wounds of skull and neck accompanied with severe hemorrhage. So on my observation, death was caused by severe cut (deep brain was involved) and severe hemorrhage."*

Basing on the state of the body, there can be no doubt that the deceased met a brutal death and whoever is responsible must have intended to cause death or grievous harm.

The only issue for determination therefore in this court is whether it were the accused persons in the dock who with malice caused the deaths of Regina w/o Selestine. The prosecution summoned eight witnesses and produced two exhibits which are the sketch map of the place of the incidence and postmortem Report of the deceased body (exhibits P1 and P2 respectively) to prove that it was the accused person who has maliciously killed the late Regina w/o Selestine.

The first prosecution witness (PW1) was James Thomas. He told the court that he was a neighbor to the accused, Rweyemamu Selestine (PW2), Kalinjuna Selestine and Regina Selestine, (the deceased) to mention some. He further told the court that on 22/11/2009 around 2:30pm while at his home he heard people shouting while saying "*mkamate huyo Trazias ameua mtu---* (get hold of Trazias, he has killed a person)" adding that the killed person was Regina Selestine whom he said has died following the machete cuts on her body.

He went on to testify that he went to the scene where the shouts were coming from and found Trazias had already run away towards Ngono River. He further stated that they tried to run after her together with the people who had gathered but he had already disappeared in Ngono River.

PW1 went on that he returned to the scene and saw the deceased laying on her back with multiple cut wounds on the head neck and she was bleeding profusely. The witness stated never to hear about the accused since then, until 11/3/2016 when he was phoned and told that the accused was apprehended in Karagwe.

When cross examined, PW1 stated that the distance from the scene to his house was about 1 ½ football pitches and it took him about 5 minutes to reach the incidence after hearing the shouts at 2:30pm but didn't found Trazias at the scene. On further cross examination, the witness said that it was the accused's children who told them that it was Tranzias who killed her. He also stated that the deceased had put on a dress and had a *khanga* wrapped in her waist. When asked about the deceased children he found at the scene, PW1 mentioned them to be Silvery Selestine, Rweyemamu Selestine, Kalinjuna Selestine, Sebastian Selestine and Bernadetha Selestine.

When asked by the 2<sup>nd</sup> Assessor, PW1 answered that the deceased was killed in the *shamba* of his son: Rweyemamu Selestine. He further clarified that he didn't know if the deceased was killed by a knife or *panga*, but it was a sharp object.

PW2 was Rweyemamu Selestine who is a son of the deceased. The witness told the court that her mother; Regina Selestine was killed on

22/11/2009 afternoon hours and he witnessed the incidence. In narrating the incidence, the witness testified that he had an accident and injured his hand (broke) and was at his home on 22/11/2009. He went on that around 11.00am the Hamlet Chairman one James Kakuru came at his home with a militiaman to search and apprehend Theophil Trazias Evarister, the son of the accused for he was suspected to have stolen timbers of one Asuman, but they didn't find him at his home and they left. He went on that, later her mother the late Regina Selestine came to see him so as to know his health state following the said accident. That he suddenly saw the accused holding a *panga* in a company of his son Theophil and dashed inside. He went on that the accused got hold of the deceased's hand, pulled her and went with her outside and started to cut her with *apanga*. When pulling her she was accusing her to have testified/given the information against her son Theophil on the theft of timber. The witness started to shout for help and his brother Sebastian Selestine came. He went on that it was a sunny day afternoon hours and he saw Trazias cutting the deceased on the head, shoulder and neck and the action took about 10 minutes. He added that he knew Trazias before the incidence date as they were living together at Bumpande and were neighbors. PW2 further stated that he couldn't help her mother due to injured hands but also Trazias had a *panga*. He further stated that his

shouts gathered people but couldn't get hold of him as he ran away and disappeared. He added that, the deceased had multiple cut wounds.

PW2 further told the court that, he was phoned on 12/3/2016 by Muleba Police who informed him that they had a photograph of a suspect who was apprehended at Kyerwa district and were asked to go to the police and identify if it is that of the murder suspect. That they went and on being shown the photograph, they confirmed to be that of Trazias. He went on that on 15/3/2016, the police Muleba phoned them again as the said suspect of murder was physically brought and when they went at the police, they confirmed to be the one who had killed the deceased.

When cross examined, PW2 stated that the Hamlet Chairman and the militiaman came around 11:00 am-12noon but the killing incidence occurred around 2.00-3.00pm. The witness further stated that the distance from his house to where the deceased was killed was about 10 paces. When further cross examined PW2 told the court that when the police were phoned on the killing incidence, they told them to take the body and put it inside PW2's house as they might come late and they did, adding that Afande Ally and the Doctor came on the following day (23/11/2009). He also stated that his brother Sebastian came shortly after hearing his shouts and Silvery came later and were all shouting but

none could apprehend the accused as he was soaked into blood and holding a *panga*.

When asked the clothes Tranzias wore on the incident day, PW2 stated that he was with bare chest and had put on a black trouser-and that while butchering the deceased, Theophil was standing beside him. He went on that since the incidence date, he has never seen him until at the police station Muleba and today in court.

When asked by the 1<sup>st</sup> assessor, PW2 clarified that, it was the Hamlet chairman who informed the police on the incidence and the police told him that the body be removed and kept inside.

He further clarified when asked by the 2<sup>nd</sup> assessor that, the deceased was not living with him but she came to visit him at his home.

The third prosecution witness (PW3) was Sebastian s/o Selestine who is also a son of the deceased.

The witness told the court that on the afternoon of 22/11/2009 around 1:00pm which was Sunday, he was at the home of his brother Salvatory Selestine. He then heard shouts "*usiniue, usiniue*" (don't kill me, don't kill me) and that the shouts were coming from the home of another brother of his one Rweyemamu Selestine. The witness run towards Rweyemamu's home and on reaching there he found Trazias cutting his

mother Regina with a *panga*. He further stated that the incidence happened in front of the house where Rweyemamu's house situate. That the deceased was cut several times on the head and shoulder.

PW3 went on that, he knew Trazias before the incident date as they were neighbors. The witness shouted for assistance and Trazias run away towards Ngono River and disappeared. He went on that the Police were informed by the Hamlet chairman who advised them to take the body and keep into Rweyemamu's house as they said they would arrive on the following day, to which they did. He further testified that, he found Trazias alone at the incidence and since then Trazias was being searched by the Government.

PW3 further stated that they were phoned by Muleba police informing them that a person suspected to be Trazias was apprehended at Kyerwa and told them to go to Muleba to see his photo sent to them through *whatsapp* for confirmation. That they went and confirmed to be the one. He went on that the police further told them that they were making some arrangement to physically bring him at Muleba Police and that on 15/3/2016 they were requested to go and identify him physically to which they did and confirmed that he was the person who killed the deceased.



During cross examination, PW3 stated that he was the 2<sup>nd</sup> person to arrive at the incidence and that found the deceased at the *shamba* of Rweyemamu Selestine and witnessed Trazias cutting her. He further stated that Trazias was with bare chest and had put on a pair of black trouser. He also stated that when arrived at the incidence he found Rweyemamu who was also shouting but couldn't assist their mother as he had a broken hand and that it was the police who phoned Rweyemamu to inform the arrest of Trazias. In re-examination, the witness stated that the incidence took place around 1:00pm but didn't had a watch.

When sought for clarification by the 1<sup>st</sup> assessor, PW3 told the court that, Trazias run towards *Mto Ngoni* and disappeared.

The fourth (PW4) prosecution witness was a police officer with No. E.5219 D/CPL. Ally who was the investigator of the killing incidence. The witness told the court that on 23/11/2009 afternoon hours while at his office in Muleba Police station, he was instructed by the OCCID to go to Bumpande as there was a murder incidence. That he went with a Doctor, the OCCID and other police officials. That the initial information was to the effect that the deceased was Regina w/o Selestine and that the incidence occurred the previous day (22/11/2009) whereby the suspects were Trazias Evarista and his son Theophil Trazias who were at large.

They went at the scene and on arrival, they found the deceased body was kept in the sitting room of Rweyemamu Selestine. He went on that, he found the body to have multiple cut wounds caused by a sharp object on the head and neck-and that the wounds were deep. He was shown the *shamba* of Rweyemamu Selestine where the cutting incidence occurred at and found a lot of blood.

PW4 further testified that the sketch map of the place of incidence was drawn by Afande Fulgence and further the autopsy on the deceased body was conducted by the doctor at the presence of the deceased's relatives. That they later handed over the deceased's body for burial processes.

The witness went on that on 11/3/2016 while at his home, he was phoned by PC. Isaack of Muleba Police station that he has received information from PC. Hussein of Kyerwa Police Station by then. The information was to the effect that there was an accused by the name of Deusdedit Aron who was apprehended for indecent assault, but is also suspected to have been the one being searched for the killing incidence at Muleba. PW4 requested PC. Isaack to take the suspect's photo and send to him through *whatsapp* for identification by the deceased's relatives. He clarified that, after the killers' disappearance the information was shared and distributed in all of the neighboring police

stations with Muleba. He went on that they accordingly informed Rweyemamu Selestine and on the following date, the accused's photograph was sent to PC Isaack by PC. Hussein of Kyerwa through *whatsapp*. He further testified that when the relatives came at Muleba on 12/3/2016, they were showed the photograph by PC Isaack and they confirmed to be the suspect who run away after committing the killing offence. That he gave the feedback to Kyerwa police and on 15/3/2016 the accused Trazias was brought to Muleba Police from Kyerwa. He went on that they informed the deceased's relatives for physical identification and they confirmed that he was the one who killed the late Regina w/o Selestine. He correctly pointed at him on the dock.

The witness went on that, according his investigation, it was the accused who killed the deceased as per the eyewitnesses who were Rweyemamu and Sebastian; the deceased's son. He further stated that it was on the daylight when the incidence occurred but also the evidence of Silvery Selestine corroborates the evidence of Rweyemamu and Sebastian as he stated that he saw the accused running from the incidence area while holding a *panga*. PW4 went on that, the action of the accused to run away from Bumpande and decided to live at Kyerwa for seven years till when apprehended shows guiltiness on his part, and on top of that the change of his names from Trazias Evarista to that of Deusdedit Aron also raise suspicion.

When cross examined, PW4 stated that the accused has never renounced his names and that it was possible for a person to have more than three names. He further conceded to have been informed that the accused went back to the village and burnt some houses. He further agreed that though when testifying he has said that the accused has never went back to the village but that was due to forgetfulness. When further cross examined, the witness conceded to have told the deceased relatives to apprehend the accused or inform the police if they happen to see him and that though the relatives informed the police on the burning of the house by the accused, but they so informed late. The witness also conceded that the eyewitnesses were relatives as they were living together and were neighbors. He refuted the allegation that the testified witnesses had grudges against the accused. He went on that PC Hussein suspected the disappeared killer could be the one apprehended at Kyerwa as the police normally exchange information on suspects as well as their behavior. When further cross examined, the witness told the court that he arrived at the incidence around 3:00pm. He further denied to have taken any witness statement but when shown Rweyemamu's statement (PW2), PW4 conceded to be the one who wrote it and that he had forgotten to have done so as many years have lapsed since the incidence occurred. When asked on the time contradiction in Rweyemamu's statement and his statement, the witness

explained it to be a typing error. PW4 also termed it a typing error when asked on the contradiction with regards to where the deceased body was found as when PW4 testified he said he found the body at the sitting room but in his statement he stated the body to be in the farm.

PW4 was also cross examined as to where were the other statements of 2009 when the incidence occurred and answered that they were in the case file as per his belief and that he was the last person to write his statement being the investigator. When asked why other statements were taken in year 2016 and not 2009 he said he had no answer but denied that it is not true that the omission to write the statements in year 2009 was calculated so as to concoct the stories in year 2016.

In re-examination, PW4 stated that, the accused was using the names of Trazias Evarista while at Bumpande but when at Kyerwa, he was using the names of Deusdedit Aron. He also told the court that there was no law that prohibits relatives who witnessed the incidence to testify.

When sought for clarification by the 1<sup>st</sup> assessor, the witness stated that he was told that the accused run away to the bush towards the river thus it wasn't easy to apprehend him.

PW5 was police officer with No. D6383 Dt Sgnt Angelo who informed the court that in year 2009 he was working at investigation Department, Muleba Police station. He went onthat on 23/11/2009 afternoon hours

while at his work station, he was instructed by the OCCID one Osiago Ochen to go to Bumpande village for the investigation of the murder incidence that had occurred. That they followed a doctor at Kaigara Health Centre one Florence Kayungi who conducted the autopsy of the body and together with Dtc. CPL Ally and the OCCID, they went to the scene of incidence. When reached there they found the body of the late Regina Selestine laid at the sitting room and that the body had multiple wounds on the head and neck which was caused by a sharp object. He went on to testify that, he was instructed to draw a sketch map of the scene of incidence and that he was getting the explanation/assistance from Rweyemamu Selestine (PW2). After being shown and identify the document, he tendered it and the court admitted as exhibit 'P1' following a no objection from the defence side. The witness further stated that they didn't find the suspects as they had run away and that the suspects according to information received were Trazias Evarista and Theophil Trazias.

When cross examined, PW5 stated that they arrived at the scene of incidence around 3:00pm and they knew the names of the suspects before going to the scene. He also stated that, normally the sketch map would contain the scene where the witnesses are located, important items like trees which are present at the scene if any and that the purpose of the key is to explain the items in the sketch map. When

further cross examined, PW5 stated that according to exhibit 'P1' letter 'C' shows the home of Theophil; the suspect and that he was so informed by Rweyemamu. Further that he showed where the body of the deceased was found. The witness also explained that he has come to testify on the killing incidence through tendering the sketch map of the scene of incidence.

In re-examination PW5 stated that the killing suspects were two; Trazias and Theophil who both went at large. He further stated that, according to the information, the one who cut the deceased was Trazias. He also stated that he didn't show the house of Trazias in the sketch map as his house was a far from the place of incidence while in a sketch map, what normally is shown is the items closer to the place of incidence.

When sought for clarification from the 3<sup>rd</sup> Assessor, PW5 stated that the police were searching for the suspects after they were told to have run away and lastly they heard that one of them moved to Karagwe and changed names.

The sixth prosecution witness was Simon Kakuru James who told the court that in year 2009, he was a Hamlet chairman of Bumpande Hamlet and currently he is the VEO of Bumpande Village. He went on to tell the court that he remembers on 22/11/2009 around 11:00 he was informed of the incidence whereby Theophil Trazias stole the timber belonged to

Mr. Pantaleo and they started to search for him at his house but they didn't find him. He went on that on the same date around 2:00pm he heard shouts from the house of Rweyemamu Selestine and Sebastian Selestine who were the sons of the late Regina Selestine who was killed on the same date by being cut with a sharp object. That he decided to follow the shouts and when reached there, he saw Rweyemamu and Sebastian, the sons of the late Regina, together with other villagers gathered, and were shouting that Trazias Evarista has killed the deceased. The witness stated further that he knew all: the deceased, Trazias and Theophil as they were all living in the Hamlet he was chairing. He went on that, being a leader, he beat a drum to call people and together they started to search for Trazias until Ngono River where he run to, but in vain. PW6 went on that the deceased had many cut wounds on her neck and head. After failing to get Trazias, he collected a letter from the VEO and went with it to the police and reported the incidence. The witness further testified that, the accused and his son were never seen in Bumpande until todate when he saw him at the dock.

When cross examined, the witness stated that he started to chair the Hamlet in year 2005 and conceded to know all incidences which happens in the village. PW6 denied that the deceased was never chased from the village according to his knowledge as a chairman. He further conceded to have information concerning the wounding/injuring of a child, cutting



of the banana plants and burning of the house, which happened in year 2010. He further stated that the farm burnt was about 5 acres and belonged to the late Regina's son together with the burnt house. When further cross examined, he stated that Rweyemamu and Sebastian were accusing Trazias and Theophil for the said burning and cutting incidences. That he was also told that the one who killed Regina was Trazias, and that Theophil run away early as they were searching him for stealing timber. When further cross examined PW6 stated that he didn't say that in between Trazias came back at the village and committed the said incidences as he wasn't asked.

Besides it was Rweyemamu and Sebastian who so claim. PW6 also stated that they searched for Theophil around 11:00am and that it was about 40 paces from his house to the place of incidence. He further told the court that he heard the shouts around 2:00pm and that he went at the incidence running and reached at the scene around 2:05pm. Further that he found the deceased at the shamba wearing a dress and a kitenge. Also that he didn't see the object used to cut her as when he reached the incidence, the deceased was already cut.

When re-examined PW6 stated that though he said Theophil wasn't there at the scene but it was the deceased's family who witnessed the

incidence and thus better placed to confirm if Theophil also participated in the killing or not.

When sought for clarification by the 2<sup>nd</sup> assessor, PW6 stated that, Trazias had bad relations with the late Regina and were insulting each other whenever they met. When further sought for clarification, the witness stated that according to his assessments on the wounds, the sharp object used was a *panga* as the wounds were too big for a knife.

PW7 was a police officer with No. 902 D/CPL Hussein who introduced himself to be working under Crimes Investigation Department and currently his work station was at Bukoba. He told the court that in year 2016 he was working at Kyerwa District, Kaisho Police station. He went on that on 11/3/2016 afternoon hours while at his work station Kaisho, he was instructed by the OCD to go to the D.C's office Kyerwa so as to take the statement of a certain woman who went there to complain that she has been raped by her father. He went as instructed and took the complainant to Kaisho Police Station. He went on that the woman introduced herself by the name of Joanitha Trazias and further that they were living at Bumpande village but later shifted to Rwabigaga village where they were currently living. That the woman went on that, the person who abused her was her father she mentioned by the name of Trazias alleging that he has raped her. The

witness gave the complainant PF3 so as to go to the hospital for examination but the results were negative. The witness further testified that on further questioning the woman, she stated that she had hidden some money at her private parts and when her father told her to give him the money she refused so the father inserted her fingers in the complainant's private parts and took the money hidden there. The witness after hearing that she went to Rwabigaga village to find the suspect. While there he met the VEO from whom he requested his cooperation so as to apprehend the suspect. That the VEO told him that the said suspect had gone to his office to report for the family misunderstandings that ensued. While going to the suspect's house, they met him on his way coming to VEO's office and the VEO pointed at him. PW7 followed him and introduced himself to him. He told him the complaints against him and apprehended him. He went on that he noticed confusion<sup>4a</sup> on his identity as the complainant told him that his father's name was Trazias but after apprehending him, the suspects told them that his name was Deusdedit Aron. The witness stated that they had first to reconcile the said names, by requesting the suspect to narrate the family misunderstanding ensued which upon hearing it, resembles to the complainant's narration and thus he took the suspect to Kaisho Police station for further questioning.

He went on that, they had already the information concerning the Bumpande killing incident of 22/11/2009 whereby one woman by the name of Regina was killed by a suspect with the name of Trazias. He went on that when he read the information concerning the complaint he was investigating, he noted that the complainant's name was Joanitha Trazias who was born at Bumpande village and that they shifted from the said village to Rwabigaga village. He went on that, the accused explanation was to the effect that he once lived at Bumpande and later shifted to Rwabigaga and that his name is Deusdedit Aron. He went on telling the court that according to the information they received on the Bumpande killing incidence of 2009, the suspect was called Trazias Evarista. Further that, the killer disappeared after the killing together with his family and they didn't know where he has shifted to. PW7 went on that the confusion on the names of the suspect and connecting the information he got from Joanitha Trazias and Deusdedit Aron, the witness got suspicious and decided to communicate with the Police officer Muleba who advised him to get the photograph of the suspect who by that time was at Kaisho police and he did took it on 12/3/2016 then send to the police officer one Isaack at Muleba through *whatsup*. He went on that he got the feedback on the same day evening from PC Isaack that after showing the photograph to the deceased's relatives they confirmed to be that of the killer, Trazias. The witness then informed the OCD

accordingly that the suspect of abuse/indecent assault is also suspected to have killed a person at Bumpande village, Muleba District. He also told the court that the suspect was then interrogated and on 15/3/2016 he handed him over to Muleba Police Station and returned to Kyerwa to proceed with other activities.

During cross examination PW7 stated that the complainant's (Joanitha) statement was taken by WP Vumilia and that the hospital examination results was to the effect that the complainant was not raped.

The witness also stated that the accused didn't refuse apprehension. On further cross examination, the witness stated that according to his assessment, the accused had a chameleon character and clarified that when he asked him as to why the complainant introduced herself as Joantha Trazias, the accused simply told him that his a name is Deusdedit Aron and that's when he started to suspect him. When asked by defence counsel if he bothered to know whether the accused was Joanitha's biological father, PW7 answered that he didn't as he was not investigatingcx on their relationship. When further asked what if Joanitha is a step daughter, the witness said he didn't have anything to say. He conceded that apart from being told that the photograph he sent to PC Isaack is that of a killer, he has no other information concerning the

killing incidence. He also denied not to know a person by the name of Theophil Trazias.

In re-examination, PW7 clarified that, he was the investigator of the complaint reported by Joanitha and that, regardless of whether Joanitha was a step child or not, no child is allowed to be abused/ molested.

When sought for clarification by the 1<sup>st</sup> Assessor, PW6 stated that when the accused was apprehended and asked his name, he was firm but when he asked him concerning the name of Trazias, he became shaky and restless.

Florence Abella Kayungi testified as PW8 and was the last witness on prosecution side.

She was the Doctor who conducted Postmortem on the deceased body

She told the court that, on 23/11/2009 afternoon hours while at her work station Kaigara Health Centre, she was informed by her supervisor that there was a person who has died at Bumpande village and she has to go to conduct Postmortem. The witness went. She went on that, when reached the scene she found a dead body of a woman laid on the sitting room having multiple cut wounds on the neck and her head and the brain was exposed. She further testified that after examination, she found that the wounds on the deceased body caused excessive loss of blood

(hemorrhage) thus resulted to her death. PW8 further explained that the Postmortem was conducted on the body of Regina Selestine who was identified to her by Rweyemamu Selestine, and Deogratus Selestine. Further that the identifiers also witnessed the Postmortem together with the Police Officers he named to be Sargent Angelo, and ASP Osiago. The witness then filed the Postmortem Report and handed it over to the Police. The report was tendered and admitted by the court as exhibit 'P2'.

During cross examination, the witness stated that she arrived at the scene at 3.00 pm and that according to her observation, the deceased died 19 hours ago which means the deceased died around 6:00pm on 22/11/2009. She further stated that normally Postmortem is conducted where the deceased body is and that some of the deceased relatives have to be present to witness. She also told the court that, the deceased had put on a dress and kitenge. She denied to know who killed her.

When asked by the 1<sup>st</sup> Assessor, PW8 clarified that, according to exhibit P2, hours passed since the occurrence of her death was just an estimate.

On further clarification requested by the 2<sup>nd</sup> Assessor, the witness stated that, she didn't hear people mentioning the killer nor saw the killer but found a lot of people at the scene. That marked the end of prosecution witness.

The defence had two witnesses one among them being the accused himself and produced one exhibit (D1). In his defence, DW1 denied to have committed the offence telling the court that he was not in the village of Bumpande when the deceased was killed (alibi). DW1 told the court that his brother he named to be Trazias Evarista died in 1984 and according to their culture, he had to inherit his brother's wife so as to take care of his left family of a wife and three children he mentioned to be Theophil Trazias, Aneth Trazias and Anold Trazias. He went on that, his late brother was staying at Bumpande and thus he started to live at Bumpande after inheriting his brother's wife he mentioned to be Venitha Trazias in year 1986, and thus he had two homes ; one being at Karagwe where his family was and at Bumpande where the inherited family was. The witness told the court that he was in harmony with his neighbors. He went on that on 10/1/2010 while at Karagwe, he was phoned by his wife Venitha Trazias who was at Bumpande Village and informed him that his son Theophil is being accused for killing Regina Selestine and he has escaped. The witness promised to go to Bumpande whereby he started the said journey on 20/11/2010 and arrived at Bumpande village on 22/11/2010. He went on that after hearing the story from Venitha, he decided to go to Rweyemamu Selestine to give them condolences. But Rweyemamu was not happy with his visit and he even refused his hand shake when DW1 went there. DW1 then went



back home and informed Venitha on what transpired who told him that the reason is the accusation that Theophil has killed their mother.

DW1 went on that Venitha also told him on the need of money to take Arnold Trazias to school and he thus decided to sell a piece of his land to Cyrilo Mathias of Bumpande, and the sale was witnessed by the chairman he mentioned to be Simon James and the child went to school. He went on that after 20 days of stay, he went back to Karagwe.

The witness further told the court that, in year 2004 he went to Kilimilile for business purpose as he was cultivating sugarcane. He went on that on 22/11/2009, he was at Kyaka Kilimilile and went to the Ward Chairman office to get an ID/introductory letter so as to transfer his items which included seven goats, sheep, hens, two bicycles, one motorcycle and household items he mentioned to be table, mattresses etc. He further told the court that he had to go to search for the ID as when he approached the motor vehicle operators to request them to transport the items on 20/11/2009, he was advised to do so to avoid problems on the way. DW1 tendered the letter written by VEO Kilimilile (ID). He further told the court that the said VEO who wrote 'exhibit DI' is said to have shifted to unknown place.

The witness went on that they started the journey to shift to Karagwe at 10:00am on 22/11/2009 and that he was with the conductor he

mentioned to be Justinian Evarista, and other persons; Bejamini Karundi and Mzee Maboko who after loading the items, remained at Kilimilile. That they arrived evening hours at Kilimilile.

DW1 went on to inform the court that, on 11/3/2016 morning hours while at Karagwe, he notice that some of his money was stolen and the thief was Joanitha Trazias. He decided to beat her and recovered the money and Joanitha run away. The witness then decided to go to WEO and informed him the story of the stolen money and wanted to know if Joanitha had run there to report but she wasn't there. He went on that while at WEO's office, a police officer from Kaisho came and said that he was in search of Deusdedit Aron and the WEO pointed at him to signify that he was the one. That when the WEO asked the reason for his apprehension, he was told that he was reported to the police by Joanitha Trazias. He went on to testify that, he was not the killer of the late Regina Selestine, and that he was going to Bumpande village now and ten but no one apprehended or accused him to have committed the said offence rather he was informed that it was his son Theophil who did that. He further lamented that all of the witnesses who came to testify have so stated after seeing him in court insisting that his name is Deusdedit A. Bakanyuma as per his voters ID to which his prayer to tender it was objected by the prosecution side for being an after thought and the court upheld the objection, but was allowed him to explain/clarify the

confusion with regards to his names. DW1 also stated that he was kept behind bars following the disappearance of his son Theophil.

During cross examination, DW1 conceded not to have objected on the name of Trazias Evarista during PH together with his advocate as his time to speak was not yet ready, but now he claimed the time to have come. He further stated that according to his voter's ID, his name is Deusdedit A. Bakanyuma and that 'A' stands for Aron and that he was apprehended for ill motive. When further cross examined, DW1 stated that he beat Joanitha to warn her. When further cross examined on the whereabouts of the letter to receive him at Rwabigaga, DW1 stated that, he was only shifting his items and not that he himself shifted. He conceded that the letter (exhibit D1) doesn't show the writing time nor that DW1 appeared personally before the VEO but it shows the date of 22/11/2009 which is the shifting date and that there was no reason for shifting was shown in the letter. He also stated that, he had some items at Bumpande as he had a wife there. He further stated that he paid Tshs. 50,000/= as transportation cost but no receipt was issued to him adding that he already had a plan to shift his items. He also stated that he didn't had the sale agreement for the sale of land as the document was left with the purchaser. DW1 further told the court that the testimonies of prosecution witnesses weren't correct adding that when the matter was

instituted, there was also another suspect he named to be Luka Mtagalala but was later discharged, apart from Theofil and himself

When re-examined, DW1 insisted that another person who was involved in this killing incidence as per proceedings 1<sup>st</sup> page was Luka Mtagalala and that according to exhibit P1, the accused is Theophil adding that the first witnesses who testified were relatives.

He also explained the procedures in the sale of land that it is the purchaser who remains with the sale documents to protect t him. He also clarified that he was all along going to Bumpande now and then as he had another family there and that the witnesses who testified that he wasn't seen at Bumpande after the incidence were laying and their evidence a concoction. He added that the exhibit D1 concerns DW1 as it introduces him.

When sought for clarification from Assessors No. 1, he stated that he voted in 2010 using this name of Deusdedit Aron. Clarifying to the second assessor's question, DW1 told the court that, he got the names of Trazias Evarista after inheriting the wife of his brother and he agreed to be so called adding that Deusdedit Aron is his baptism name.

When sought clarification by the court, the witness stated that, the evidence against him was a concoction since the people were jealous of him for inheriting his brother's wife and his items as they wanted the

family to disperse. He asked how comes an old man of his age can manage to run and leave behind about 50 person who were running after him.

DW2 and the last Defence witness was Justinian Evarista who was a conductor of the Fusso truck which transported DW1's items on 22/11/2009. He told the court that he remembers on 20/11/2009 he was at Mzee Maboko's place at Kilimilile loading maize into the Fusso to which he was a conductor (Tingo). Then Deusdedit Aron came and requested them to take his items to Karagwe, Kamuli Ward. He went on that when asked what items he said the items were cattle and households. That they advised him to follow the procedure to go to VEO and list all of his items to be transported and he went.

DW2 went on that, they transported his items on 22/11/2009. That they started to load his items around 8:00am and started the journey at around 10:05am. The witnessed mentioned the items to be two motorcycles, two mattresses, two beds, three goats adding that DW1 managed to get the document from VEO. He went on that, they agreed that, he would pay them Tshs. 50,000/= as transportation cost. He further stated that they arrived at Kamuli around 3:00pm. He also stated that he was testifying for the first time.

When cross examined and asked the number of beds transported, DW2 answered to be two beds but when shown the letter (exhibit D1) that the beds were three, he conceded to it. When asked who is to be trusted between DW1 and himself, at first he said DW1 is to be trusted, but later changed and stated that he was the one to be trusted as he was the one who loaded the beds into the truck. He conceded that according to the exhibit D1, the beds were three but he said two. He denied to have transported the sheep and that the goats were only three insisting that he was the one to be trusted.

When asked his ID to verify that he is a conductor, DW2 at first stated not to have it there stating to have left it at home. But when quizzed as which authority gave him the ID, he changed and stated that he wasn't given any ID.

When further cross examined on the number of motorcycles transported, DW2 answered two and conceded not to remember the type/make. He further stated that, they weren't given receipt document and he doesn't know if DW1 was given such a document. He also stated not to remember the number of tables transported since long time had passed but could be two. He agreed to be the one who was given the Tshs. 50,000/= to transport the items but conceded not to have a receipt to verify that.

In re-examination, DW2 stated that during that time, what mattered was the agreement reached between the vehicle owner or the conductor and items owner. He also stated that when loading items like beads, they normally dismantle them for easy packing.

When sought for clarification from the first assessor, DW2 stated that he has come to court to give evidence on transporting the items of Deusdedit Aron.

On further clarification to the second assessor, the witness insisted that what he stated to have been transported was correct as the items owner (DW1) didn't complain when reached the destination.

When further sought for clarification by the court, DW2 stated that, they travelled together with Deusdedit Aron on 22/11/2009. That marked the end of the defence case.

Both counsels didn't wish to make the final submissions after closing their cases but prayed the court to proceed with the summing up to assessors. After the said summing up the case to the Hon. Assessors, all were of the unanimous opinion that the accused is guilty of the offence charged with and thus the court should enter conviction and accordingly sentence the accused person.

I will keep on referring to the opinions of the Hon. Assessors in the course of writing this judgment.

It is the fundamental principal of criminal jurisprudence that an accused person is presumed innocent until proved guilty. Essentially the burden of proving the guiltiness the of the accused lies with the prosecution always and the standard set is beyond reasonable doubt [Refer the case of said **Hemed vrs R (1987) TLR 117** and **Mohamed Said Matula vrs R (1995) TLR 3**]. In a murder charge which also falls under criminal Jurisprudence, the prosecution is required to prove the following elements in the above stated standard:-

- (a) That the deceased is dead.*
- (b) That the death was caused by unlawful act or omission.*
- (c) That it was the accused who did the unlawful act or omission.*
- (d) That the killing was with malice aforethought.*

The main issue for determination by this court in the case at hand therefore is whether the prosecution evidence adduced has proved the above listed elements beyond reasonable doubt.

Admittedly the prosecution has rested its case on visual identification by its two witnesses who testified to have witnessed when the accused was butchering the deceased (eye witnesses).



These were PW2 and PW3 who were the deceased's sons. The wanting question to be addressed by the court is whether there was no possibility of mistaken identity on the said identification.

As a matter of law courts are required to be cautious to ground its conviction basing on visual identification unless it is satisfied that all possibilities of mistaken identity have been eliminated and that the evidence before it is absolutely water tight [**Refer the case of Mwalimu Ally and another vrs R; Criminal appeal No. 39 of 1991 CAT Dsm** (unreported)]. In ensuring that there was no mistaken identity on identification, the case of **Waziri Amani vrs R (1980) TLR 250** has enumerated guiding factors to assist the court when determining whether or not the evidence adduced was water tight as follows:-

- 1. Whether the witness knew the accused before the incident.*
- 2. The amount of time the witness had the accused under observation.*
- 3. The distance between the witness and the accused person during the commission of the offence.*
- 4. The kind of light present and its intensity.*
- 5. Whether there was any impediment or obstruction between the accused and witness.*

In their testimonies, both PW2 and PW3 testified to know the accused person as they were all living at Bumpande village and were neighbors. They all stated that the incidence occurred during afternoon hours of Sunday around 1:00pm to 3:00pm and according to PW2, it was a sunny day and he observed from the moment the accused dashed into his house while in the company of his son Theophil while holding a *panga* on his right arm and found the deceased and himself (PW2) talking. He then grabbed the hand of the deceased and pull her outside to PW1's farm which was about 5 paces from his house and started to cut her on the head and shoulders. He further stated that the incidence took about 10 minutes before the accused run away and disappeared.

Though PW3 when he came to the scene found the accused continuing butchering the deceased at the *shamba*, but considering that it was during the day and a sunny day when the intensity of light is optimum and the fact that PW3 categorically stated when cross examined that Trazias was with bare chest and wore a black trouser, which description were exactly explained by PW2 during cross examination, I have no reservation whatsoever to rule out that the conditions were favorable to make proper identification and that there was no possibility of mistaken identity, as correctly opined by the 3<sup>rd</sup> Assessor.

Apart from identification, PW2 and PW3 mentioned the killer right away to James Thomas their neighbor (PW1) when he came following the shouting for help, and to Simon Kakuru (PW6) who was the Bumpande Hamlet chairman by that time. It is imperative to note that PW6 stated to have reached the place of incidence just 5 minutes after hearing the shouting for help which means he arrived soon after the incidence and was informed by PW2 and PW3 that the killer was Trazias. The prompt mentioning of the killer is an important assurance that their evidence was credible and thus reliable. **[Refer the case of Marwa Wangiti Mwita vrs R (2003) TLR 39].**

In determining whether or not a particular witness is credible and thus reliable, the court in the case of **Shaban Daud vrs R; criminal Appeal No. 28 of 2002 (CAT) Dsm** (unreported), the court observed as follows:-

*“The credibility of a witness can also be determined in two ways; one when assessing the coherence of the testimony of the witness and two, when the testimony of that witness is considered in relation with the evidence of others including that of the accused person.”*

In their testimonies all the prosecution witnesses who saw the deceased body were at one that she was cut with a sharp object on the shoulders and head (PW1, PW2, PW3, PW6 and PW8). They further stated that the

incidence had occurred during the day (PW1, PW2, PW3, and PW6) and that the accused was bare chest and had put on a black trouser (PW2 and PW3). They further told the court that the accused run away and shifted to another place after the incidence. (PW1, PW2, PW3, PW6) but they didn't know before to where the accused has shifted to with his family, until when he was apprehended in Kyerwa District. Narrating the incidence leading to his apprehension it was CPL Hussein (PW1) working in Kyerwa in year 2016 who suspected the accused following the confusion on his names. He then phoned D/Sgt Angelo who later phoned D/CPL Ally over the suspicion. D/CPL Ally then called deceased sons for identification who confirmed to be the killer of the late Regina Selestine, (PW5, PW4, PW7, PW2 and PW3). The fact that the accused was in Kyerwa where he was apprehended was also confirmed by the accused himself. In view of the witnesses' narration as above shown, I am convinced that the witnesses were coherent and consistent in their testimonies and thus reliable. Besides, their testimonies corroborated each other **[Refer the case of DPP vrs Hester [1973] AC 296** cited with approval in the case of **Azizi Abdala vrs R (1991) TLR 71]** wherein the court observed

*"the purpose of corroboration is not to give validity or credence to evidence which is deficient or suspect of or incredible but only to*

*confirm or support that which is sufficient and satisfactory and credible.*

In this regards therefore, I join hands with the 1<sup>st</sup> Assessor's opinion that prosecution witnesses corroborated each other well. But further to that the act of shifting from Bumpande to Rwabigaga Kyerwa District and the change of name while there in my views is also a corroboration to the prosecution case [**Refer the case of Paschal Kitigwa vrs R (1994) TLR 65**] as correctly opined by all of the Assessors.

When testifying in chief, PW4 stated that the accused had never gone back to Bumpande village since the occurrence of the killing incidence. But when cross-examined he conceded to have been informed that he went back and burned some houses and further cut the banana plants.

I am aware that there were some contradictions in the prosecution witnesses. PW4 on his part denied to have taken any of the witnesses' statement but when shown the one of PW2 during cross examination he conceded, and attributed the contradiction to forgetfulness as many years has lapsed since the incidence occurred.

Besides, PW4 also orally testified that the deceased body was found in the sitting room while in his statement he stated to have been found in farm.

Another observed contradiction was with regards to at what time the killing incidence occurred as PW1 stated to be at 2:30pm, PW2 stated to be between 2:00pm – 3:00pm and PW3 testified to be 1:00pm. Much as I concede that there were some contradiction as above pointed out, but the law is settled that the same are bound to occur. What the court is required to do in the circumstances is to decide whether or not the inconsistencies and contradictions are minor or they go to the root of the matter [Refer **the case of Mohamed Said Malula vrs R (1995) TLR3**.

As a further insistence that minor differences are acceptable and should be disregarded, the court in the case of **Evarist Kachembeho & Others vrs R (1978) LRT 80**) Held that *“human recollection is not infallible. A witness is not expected to be right in minute details when telling his story”*.

This court when analyzed them is of the view that the same do not go to the root of the matter, as PW4 gave reason of the discrepancies to be forgetfulness since the incidence occurred 2009 but he came to testify in 2020 (about 11 years). With regards to the time when the killing incidence occurred, generally they all testified to be during the day despite time differences, as such they don't go to the root of the evidence.

When defending himself, the accused person put forward a defence of alibi contending that, he was not at the place of incidence when the killing occurred on 22/11/2009 instead, he was shifting his items from Kilimilile to Rwabigaga, Kyerwa.

His testimony was supported by Justinian Evarista (PW2) who told the court that he was the conductor of the Fuso truck which transported the said items on 22/11/2009, and that he was together with the accused. The accused further tendered a letter written by the VEO of Kilimilile dated 22/11/2009 introducing him and further that he was shifting from Kilimilile with his items listed therein.

As a matter of law, an accused person is not required to prove his alibi, and that it is sufficient for him if the alibi raises reasonable doubt [Refer the case of **Ali Msutu vrs R (1980) LRT 1**.

The question before the court therefore is whether the alibi defence by the accused has casted any doubt on the prosecution case.

In his testimony the accused has told the court that he had inherited Venitha, the wife of his late brother in year 2006 so as to take care of his late brother's family who had three children; one of them he named to be Theophil Trazias.

He further told the court that his late brother was living at Bumpande village thus after inheriting Venitha he had two homes, one being at Bumpande where his late brother was living. That on 10/1/2020, he was phoned by Venitha and informed that, his son Theophil has killed Regina w/o Selestine, their neighbor and disappeared. He promised to go and he went to attend the said incidence on 22/11/2010 which is 10 months later. I should confess that, his reaction towards such a terrific incidence surprised and disturbed me. According to him, he is a father entrusted to take care of his late brother's family, yet he took more than 10 months to go to attend such a serious problem of his son killing a person. Worse the killed person was their neighbor at Bumpande among whom he assured the court that he had good relations with his neighbors. To say the least his delay to act after receiving such a terrific information by all standard is surprising, yet he didn't give a reason as to why he took all that time to go if at all what he told the court was true.

The accused also stated that he shifted his items on 22/11/2009, the testimony was also echoed by DW2. When going through the letter, the same also dated 22/11/2009, which means to be the date when written. According to the calendar, the said day was Sunday.

In my understanding, VEO is a Government officer and his office a government Office. I paused to ask, if it is normal for a Government office



in this respect VEO's office to open on Sundays which is a Public holiday. I don't deny that there could be circumstances which may force it to be open, but in this particular case, we are not told of any special circumstance which might have forced VEO office to be open early in the morning of that Sunday. (22/11/2009)

But further to that, there were contradictions in the testimonies of DW1 and dW2 which were two fold:

First in respect of items transported whereby DW1 and exhibit D1 stated that eight sheep were transported but DW2 denied vehemently that no sheep was transported. Secondly contradictions in respect of the number of a particular item transported. While exhibit D1 shows three beds, three mattresses, one motorcycle, and seven goats among others, DW1 stated to be two beds, two mattresses, three goats and two motorcycles. When DW2 was asked as to who is to be trusted between them, he first answered that the one to be trusted was DW1 but later changed that he should be the one to be trusted.

I would have ruled out that the discrepancies were minor if would have been only with regards to the number of items transported, having in mind the time elapsed since them. But the contradiction which concerns which items were transported (the denial of transporting sheep by DW1), coupled with the day when the letter was written in my view goes

to the root of the evidence as it raises doubts if at all there were items transported on the material date.

Besides, there was self-contradiction as well in DW2's statements. When asked by the State Attorney if he has an Identity which confirms him to be a vehicle conductor he answered in affirmative and further stated to have left it at home. When further cross examined as to which authority has issued him the ID, he changed and stated not to have it.

As if that is not enough, the demeanor of DW2 when testifying was questionable: He was sometimes beating/ punching his head or look on the roof before answering as if searching for answers. He also looked tense and uneasy throughout his testimony. Which in its totality made this court to doubt if he was speaking the truth.

I understand that each witness is entitled to be believed unless there are good and cogent reason to the contrary [Refer the case of **Goddluck Kyando vrs R** (2002) TLR 363. However the contradictions in testimonies of DW1 and DW2, the surprising conduct of the accused of taking 10 months before going to Bumpande after hearing the shocking news of his son killing their neighbor Regina Selestine, the day when exhibit D1 was written (Sunday), the shifting to Kyerwa from Bumpande and consequently the change of names by the accused, the tension and change of statements by DW2 when testifying, to say the least have

made this court to rule out that DW1 & DW2 are not witnesses of truth, and their testimonies unreliable. In such a situation, the accused alibi has not prejudiced prosecution case.

I am aware of the stance of the law that even where the alibi appears false, or has not found to have raised reasonable doubt, still there must be convincing evidence on its own to bring home the alleged offence [Refer the case of **Ali Amri vrs R; Criminal appeal No. 117 of 1991 CAT AR** (unreported).]

Besides, the courts has also stipulated that essentially the law requires conviction to base on the strength of the prosecution evidence and not weakness of the accused's defence [ **Refer the case of Christian Kale & another vrs R (1992) TLR 302**]. The question as to whether the prosecution's evidence is strong against enough to ground a conviction on the accused shall be answered in my conclusion after analyzing the evidence in its totality.

I am also aware that the accused has indicated that the witnesses were relatives and that the evidence was concocted against him as they were jealous of him. However the stance of the law with regards to testimonies by relatives was given in the cases of **Jacob Mlongo vrs R; Criminal Appeal No. 240 of 1995 (HC)** and **Jumu Choroko vrs R; Criminal appeal No. 23 of 1999 CAT Dsm** (unreported) wherein it was stated that-

*“there is no law which prescribes that family members’ evidence cannot be relied upon to found conviction --- what is important is the credibility of the witness involved and also the circumstances surrounding a particular case.”*

Thus his contention has no legal base.

The accused also has asked as to how an old man of his age can run and leave behind about 50 persons who were running after him? But it is imperative to note that the incidence occurred over 10 years back which means at that time he was more energetic than when testifying recently. I am also fully aware that the accused when testifying has stated that, he was going to Bumpande now and then but wasn’t apprehended for the said offence. Suffice to state that the evidence which suggests that he went to Bumpande was that of PW4 and PW6 to which they have stated to have been told by the deceased sons. But none of the deceased son who came to testify had so indicated, as such it remains hearsay, thus unreliable.

The accused also has told the court that there was another suspect for this case he mentioned to be Luka Mtagalala but was discharged. However no evidence adduced suggests so. PW2 who was an eye witness mentioned Theophil Trazias to be together with the accused when committing the offence. But it is enough to state that even if the so called

Luka Mtagalala would have been involved and participated in the killing, his absence from the dock wouldn't exonerate the accused from liability with the presence of the water tight evidence against him as per Section 23 of the Penal Code Cap. 16 RE: 2002.

In the foregoing, it is the findings of this court that Trazias Evarista @ Deusdedit Aron is the one who has caused the death of Regina w/o Selestine. Having so founded, the court has to go further and determine as to whether or not the said killing was with malice afore thought.

The law has stipulated guiding factors to assist the court to infer malice on the accused person. This is so because the attacker would not normally declare his/her intention to commit the offence. According to the case of **Enock Kipela vrs R**; criminal Appeal No. 150 of 1994 (unreported) the factors are as follows:-

- 1) *The type and size of weapon used in the attack.*
- 2) *The amount of force applied in the attack.*
- 3) *The part or parts of the body the blows were directed/inflicted on.*
- 4) *The number of blows though one may suffice depending on the facts of the case.*
- 5) *The kind of injuries inflicted.*

- 6) *The attacker's utterance if any made before/during or after the killing.*
- 7) *The conduct of the attacker after the killing.*

Going through the evidence adduced, the accused used a panga to cut the deceased and the wounds were multiple.

According to witnesses, the deceased body had cut wounds on the head and shoulder which by all standards the head is a dangerous and vulnerable part of the body. It was further testified that the cut wounds were deep to the extent that the brain was exposed which confirms that the force used to inflict the wounds was big. (PW8 and exhibit P2).

It was also stated by PW2 that the accused was accusing the deceased while pulling her to the *shamba* before cutting her that, she want to testify against his son Theophil Trazias on the theft of timber into which Theophil was a suspect.

Besides the accused shifted from Bumpande village to Rwabigaga Kyerwa where he changed his name to Deusdedit aron.

Applying the guiding factors in the case of **Enock Kipela** (supra) to the evidence above, the court is convinced that the accused had malice aforethought to cause the death of Regina w/o Selestine.

The court has further observed that, malice can also be demonstrated/inferred by looking at the motive for the offence [Refer the case of **Obadia Kijao vrs R; Criminal appeal No. 75 of 2007 CAT** (unreported)]. However the law is settled that motive is not an ingredient of murder though its absence weakens the prosecution case and its presence strengthens it. In the case of **Crosperry Ntagalinda @ Koro vrs R; Criminal appeal No. 312 of 2015 CAT BKB** (unreported)] the court observed as follows:-

*“On looking at the evidence on record, it is evident that the appellant had motive to kill or cause grievous harm to the deceased. However we are fully aware of the fact that motive is not an ingredient for murder. However its presence strengthens the prosecution case and its absence weakens it.”*

The issue therefore is whether the accused had any motive to kill the deceased.

When sought for clarification by the 2<sup>nd</sup> Assessors, PW6 told the court that the accused and the deceased were at loggerheads and whenever they met, they would insult each other. It was also the testimony of PW2 that, when the accused was pulling the deceased to the farm where he butchered her, he was complaining and accusing the deceased that she want to testify against her son Theophil who was suspected to have

stolen the timber. In my view, the enmity and hatred condition between the two (accused and deceased) together with the inquiry which was going on against his son coupled with the accusations by the accused towards the deceased, explains why he decided to eliminate her. In that respect therefore the malice aforethought on the part of the accused was vividly demonstrated through the said motive as well.

In the forgoing therefore, it is the finding of this court that, the prosecution has managed to prove its case beyond reasonable doubt that it was the accused person, Trazias Evarista @ Deusdedit Aron who has murdered the late Regina w/o Selestine and I accordingly convict him as charged.

L.G. Kairo

Judge

20/3/2020

**State Attorney:** We pray the court to sentence accused as per the law as what has been done is unacceptable. Regina is no more and definitely is missed by his family. Thus his sentence will be a lesson to others.

**Adv. Mujaki:** NIL

**Accused:** I didn't kill her.




## **SENTENCE.**

In Tanzania, the law is very categorical that the only punishment for the murder offence is death sentence which is suffered by hanging. This punishment has received a lot of criticism from various groups of human rights activists arguing that it is degrading and inhuman as it lowers human dignity. However at this juncture I need not get involved in such arguments as this is a court of law and not a forum for debate. Until when the alternative punishment will be provided, that remains the position of the law, to which I am constrained to follow and apply as it is despite the said criticism and my stance.

From the premises of the conviction entered, I sentence the accused person Trazias Evarista @ Deusdedit Aron to death, which shall be suffered by hanging.

Order accordingly

  
L.G. Kaliro  
Judge

20/3/2020

R/A Explained



L.G. Kairo

Judge

20/3/2020

**Court:** Hon. Assessors are thanked and discharged.



L.G. Kairo

Judge

20/3/2020

AT BUKOBA

20/03/2020