

IN THE HIGH COURT OF TANZANIA

(MWANZA REGISTRY)

AT GEITA

CRIMINAL SESSION NO. 22 OF 2016

THE REPUBLICPROSECUTOR

VERSUS

MASUMBUKO S/O ZONZA.....1ST ACCUSED

FITA S/O ZONZA.....2ND ACCUSED

SENTENCE

The accused persons, MASUMBUKO S/O ZONZA and FITA S/O ZONZA have been convicted of the offence of Attempted Murder contrary to Section 211 (a) of the Penal Code Cap. 16 [R.E. 2019].

In reaching an appropriate sentence this court has considered several factors, the nature and the seriousness of the offence that the accused has been found guilty of the circumstances surrounding the commission of the crime. The court is also duty-bound to take into consideration the main purpose of punishment namely; retribution, deterrence, prevention and rehabilitation. All these must be accorded due weight in any sentence.

In sentencing the accused person, I have seriously taken into consideration the concern raised by the learned State Attorney and mitigation factors raised by defence learned counsels. I have also considered the circumstances which led to the commission of this offence. Mr. Kato, learned counsel stated that the accused persons are first offenders but he urged this court to issue a sentence to serve as a lesson to the accused person and the society at large. Mr. Kato lamented that the act of the accused persons are uncouth because the victim is not provide necessary needs to her two daughters. On his side, Mr. Malecha, Learned counsel urged this court to issue a lenient sentence because the accused persons have pleaded guilty and they feel remorse. He also stated that the 1st accused person was on bail and all the time he was a good citizen. Mr. Otieno. Learned counsel for the 2nd accused person prayed for lenient sentence. He stated that the accused person is a first offender and has pleaded guilty to the offence thus has saved the costs of this court. He added that the 2nd accused person is HIV positive therefore he is undergoing treatment and he has seven children and a wife who depend on him.

After considering the concern and mitigation factors raised by both learned counsels, I must state that the issue of sentence has exercised my mind considerably taking into account the habit of both accused persons that they were ready to confess without disturbing the court. Additionally, all the five years while on bail they were good citizens, did not commit any crime. But also

I have considered the fact that the accused persons were subjected to psychological torture knowing that they are facing an attempted murder case. Therefore, I have found that although their behaviour are uncouth but I believe that they have learnt a lesson. Therefore, I order that the accused persons be absolutely discharged from custody.

Order accordingly.




A.Z. Mgeyekwa
Judge
06/05/2021