

**THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**  
**[IN THE DISTRICT REGISTRY OF ARUSHA]**

**AT ARUSHA**

**CRIMINAL SESSION NO. 44 OF 2019**

(P.I No. 26/2019 RM's Arusha )

**REPUBLIC**

**VERSUS**

**LANYORO MBARIO**

**PROCEEDINGS**

Date: 17/2/2021

Coram: K. N. Robert

For the Republic: Janeth Sekule, Senior State Attorney and Ahmed Hatibu,  
State Attorney

Accused:

For the Accused: Mr. Ngeseyan, Advocate

**Assessors:**

1<sup>st</sup> Joyce Edward

2<sup>nd</sup> Tabu Simile

3<sup>rd</sup> Simon Elton

**Court:** Information is read over and explained to accused person in his own language and he is required to plead thereto.

Accused: "Ni kweli laikini kwa bahati mbaya"

**Court:** Entered as plea of "NOT GUILTY" to the charge.

**Sgd: K. N. Robert**

**Judge**

**17/2/2021**

**Mr. Ngeseyan, Advocate:** My Lord, the accused person is willing to plead guilty to the offence of Manslaughter if the Republic have no objection.

**Janeth Sekule, Senior State Attorney:** My Lord, we have no objection to the prayer made by the counsel for the accused person. We pray to substitute the charge to Manslaughter. However, since some of our witness namely, Endai Siloma of Loliondo, Ngorongoro District and G2906 D/C Idd maneno of Loliondo police station and Gasper Malisa of Ngorongoro District court have attended today we pray that they should feature in the record, of this case.

**Court:** Prayer to substitute the information of murder into Manslaughter is granted.

**Sgd: K. N. Robert**

**Judge**

**17/2/2021**

**Court:** Information on substituted charge of Manslaughter is read over and explained to accused person in Kiswahili language and he is required to plead thereto.

**Accused:** "Ni kweli "

**Court:** Entered as plea of Guilty to the charge.

**Sgd: K. N. Robert**

**Judge**

**17/2/2021**

**Facts by Janeth Sekule, Senior State Attorney:** The accused person Lanyoro s/o Mbario is charged with Manslaughter u/s 195 of the Penal Code. The event took place on 29<sup>th</sup> day of June, 2013 at Arash Village within Ngorongoro District, Arusha Region.

On 29/6/2013 the accused person and deceased were together at the grazing field. A misunderstanding occurred between them after the deceased had mixed up his group of cattle with that of the accused person. After that event, the accused person asked the deceased why he was mixing up his group of cattle with the accused's cattle. The deceased said he did it deliberately.

The deceased who was older to the deceased took a stick to punish the deceased; the deceased in turn threw a matched to the accused person. The accused evaded the matched. The deceased took a maasai club and threw it to the accused person again. The accused evaded the club then took it and threw it back to the deceased. The club got the deceased on the head and he fell down. The accused ran to the deceased's house and informed the deceased's brother about the incident. He took the deceased's brother to the scene. The found the deceased bleeding profusely. The deceased was taken to Arash dispensary for treatment then transferred to Waso Hospital where he died on 29/6/2013 while undergoing treatment.

An autopsy was conducted on 29/6/2013 and the Autopsy report revealed that cause of death was head injury at the Right parietal area covered with gauze blocked with blood.

The incident was reported to police who came to the scene of crime for investigation. The accused person was arrested on 11/1/2017. In his cautioned statement he confessed to have killed the deceased. He was also taken to the Justice of peace where he confessed to have killed the deceased.

We pray to tender the autopsy report, cautioned statement and extrajudicial statement of the accused person as exhibit if there is no objection.

**Mr. Ngeseyan, Advocate:** I have no objection.

Court: Report on Post – Mortem examination, accused person’s cautioned statement and Extra – Judicial statement are accepted and marked as exhibit P1 (a - c) collectively.

**Sgd: K. N. Robert**

**Judge**

**17/2/2021**

The accused was brought to court to face the charges filed against him.

That is all.

**Court:** Accused person is asked if he admits the facts as read over by the Republic to be true and correct.

**Accused:** I admit that the facts are true and correct.

**Sgd: K. N. Robert**

**Judge**

**17/2/2021**

### **FINDINGS**

The facts adduced by prosecution and admitted by the accused person to be true and correct are sufficient to establish and prove the charge of Manslaughter c/s 195 of the Penal Code which the accused stands charged.

I therefore finds the accused person guilty of Manslaughter on his own plea of guilty to the offence.

**Sgd: K. N. Robert**

**Judge**

**17/2/2021**

### **PREVIOUS CONVICTIONS**

My Lord, we have no previous criminal records of the accused person. However, we pray that the court should give a deserving sentence given that the accused he has ended life of a young boy.

**Sgd: K. N. Robert**

**Judge**

**17/2/2021**

### **MITIGATION**

**Mr. Ngeseyan, Advocate:** My Lord, we pray that the court should give a lenient sentence due to the following:- At the time of the alleged crime the accused person was 13 years old, the accused person has always been cooperative from the time of the alleged crime, the accused has depends namely, his sick mother and his young siblings, the deceased contributed to his own death by mixing up his head of cattle with those of accused threw weapons to the accused which the accused person threw back to him. The accused person had no intention of causing death since he had no intention of causing death since he is the one who went to the

deceased's family and asked his brother to take care of his wounded young brother, the court should also consider that for five years since 2017, Jan, 11<sup>th</sup> the accused has already been punished by maasai traditions where he was required to pay 49 heads of cattle which he has paid at least by half. The accused person is remorseful and he is a young man who is still productive to the society. The accused person has learn a lot from remand custody, he is a first offender, the accused was defending himself from the assault coming from the deceased, the accused hit the deceased once only and without intention to kill.


### **SENTENCE**

Accused person is a first offender who pleaded guilty to the charge. Death occurred as a result of a fight which was instigated by the deceased, the accused person was very cooperation from the moment of the alleged killing, he informed the deceased's family about the incident and asked them to take care of the wounded deceased, he has been in custody for the past five years since 2017 and, as the first son whose father has passed on, his family depends on him for support.

All that considered, I sentence the accused person to 12 (twelve) months imprisonment.

R/A Against sentence explained.



  
**K. N. Robert**  
**Judge**  
**17/2/2021**