

IN THE HIGH COURT OF TANZANIA

(MWANZA REGISTRY)

AT GEITA

CRIMINAL SESSIONS CASE NO. 59 OF 2021

THE REPUBLICPROSECUTOR

VERSUS

JUMA S/O SALVATORY@ MWININGA.....ACCUSED

SENTENCE

The accused person has been convicted of the offence of manslaughter contrary to section 195 and 198 of the penal code Cap. 16 R.E 2019. The offence in which the accused is charged and convicted with, attracts a maximum sentence of life imprisonment.

The prosecution side asked this court to impose severe sentence to an accused person considering the circumstance and the nature of the case, that the accused when he was at pombe shop after being drunk he beat the deceased with a piece of tree on the reason that he was provoked by the deceased even though the accused had all the means and the possibility of leaving the pombe shop.

The prosecution side believed that the words uttered by the deceased were not provocative words as such for the accused to beat the deceased and caused injuries to the body of the deceased and ultimately to have caused his death.

However, if one considers the accused's mitigation that he confessed to the police, justice of peace and the court, it is undisputed that he had saved the time and costs to the court. The accused is the first offender, he is in

custody for almost 9 months now, this is a sign of remorse and show that he regrets. The accused also had a family that depend on him and the fact that the deceased uttered the provocative words in front of other people, it suggests that when the accused administered beating to the deceased he did not intend to cause death.

It is a principle of law that in sentencing the accused, the court may take into consideration the plea of guilty entered by the accused, the time he had spent in custody, the age of the accused as well as the circumstance in which the offence was committed.

In our case at hand, the accused person pleaded guilty to the offence, his readiness to promptly pleaded guilty to an offence amounts to not only contrition to the unlawful act but also expectation of court's mercy during sentencing. (see the case of **Francis Chilema v Republic**, 1968 HCD 510, and the case of **Mathias s/o Masaka v Republic**, Criminal Appeal No. 274 of 2009 (unreported)).

Again, in our present case, staying in remand is a mitigating factor that ought to be considered as it was stated in the case of **Mathias s/ Masaka v Republic**, Criminal Appeal No. 274 of 2009. Thus, much as what the accused did was in inhumane and irresponsible act, I believe that the time he spent in custody and the fact that he pleaded guilty to the offence, he is remorseful and he had learnt a lesson. Therefore, all these considered entitles him leniency in sentence.

All said and considered, I thus sentence the accused person to suffer jail imprisonment for two years. It is so ordered.


Sgd. M. Mnyukwa

Judge

22/11/2021

Right of appeal against sentence explained and guaranteed.


Sgd. M. Mnyukwa

Judge

22/11/2021

