

IN THE HIGH COURT OF TANZANIA

(MWANZA REGISTRY)

AT GEITA

CRIMINAL SESSIONS CASE NO. 90 OF 2021

THE REPUBLICPROSECUTOR

VERSUS

MARCO S/O PETRO..... 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 which attracts a maximum sentence of life imprisonment. The prosecution invited me to impose a sentence after considering the circumstance of the case. The prosecution stated that the accused beat his wife after realized that she did not prepare food for the children, and she went to drink local beer instead of taking care of the children. The prosecution believed that these circumstances did not require the accused to react on such a way and he termed it to be a gender based violence which attracts a deterrent sentence.

However, if one considers the accused's mitigation that he is the first offender, he was in custody for one year though the offence is bailable and he has pleaded guilty as a sign of remorse.

Again, the nature and the circumstances under which the death of the deceased happened, in my view was purely accidental though the act of beating in either way cannot be tolerated.

Thus, much as what the accused did was inhumane, I believe that the accused entitle a lenient sentence.

Having considered both mitigating and aggravating factors in this case, I believe that by pleading guilty, what has been reflected in his cautioned statement, the time he had spent in custody and the fact that his children depends on him, he is remorseful and he has learnt a lesson.

The circumstances of the case compelled me to impose a custodial sentence as a measure to discourage fighting among the spouses notwithstanding the mitigation advanced.

I therefore sentence the accused to one year custodial sentence as per section 195 and 198 of the Penal code, cap 16 R.E 2019. It is so ordered.



Sgd. M. Mnyukwa

Judge

23/11/2021

Right of appeal against sentence explained and guaranteed.



Sgd. M. Mnyukwa

Judge

23/11/2021