

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**  
**IN THE DISTRICT REGISTRY OF MWANZA**  
**AT MWANZA**  
**CRIMINAL SESSIONS CASE NO. 116 OF 2020**

**REPUBLIC**  
**VERSUS**  
**JUMA S/O PETER @ DASO**

**RULING**

20/5/2022 & 3/6/2022

**ROBERT, J**

The accused, Juma s/o Peter, stands charged with attempted murder contrary to section 211(a) of the Penal Code, Cap. 16 (R.E.2002). The prosecution alleged that on 24<sup>th</sup> day of February, 2017 at Kikubiji Village, Kwimba District in Mwanza region the accused attempted to cause death of Luja d/o Masunzu by inflicting several cut-wounds on her body.

Facts relevant to this case reveals that, the victim is the accused person's step mother. On 24<sup>th</sup> February, 2017 at night the victim was in the kitchen preparing dinner together with one Zengo Peter and Shoma Mayala. Thereafter, the accused and another person knocked at their door and asked to be directed to the house of one Lushinge Ngelela. Zengo Peter went out

and showed them the direction of the said house then came back in the kitchen. Immediately thereafter, the accused and his colleague stormed back into the kitchen armed with pangas and attacked the victim and left the scene. The victim identified the accused with the help of light from the burning fire which shed light around the area. The victim cried for help and neighbors gathered at the scene where the victim named the accused as one of the persons who assaulted her.

Thereafter, the victim was rushed to Kwimba District Hospital and later to Bugando Medical Centre. The Medical Examination Form (PF3) indicated that the victim sustained multiple wounds on the body. In the course of investigation, the accused was apprehended, interrogated and arraigned for the offence of attempted murder. The accused person pleaded not guilty to the charge filed against him.

At the hearing of this case, the prosecution was represented by Maryasinta Lazaro, Senior State Attorney whereas the accused person enjoyed the legal representation from Mr. Lenin Njau, learned counsel.

To establish a case against the accused, the prosecution called five witnesses, Leonard Elias (PW1), Donald Mugasa (PW2) and G.4742 D/Cpl Michael (PW3).

PW1, the hamlet chairman at Mwamukoye area informed the Court that, he heard an alarm on the night of the 24<sup>th</sup> day of February, 2017 then two people went to his house and told him that, there was an event at the house of Mr. Peter Daso. He left with them to the said house where he saw blood at the house but he didn't see the person who was bleeding. Mr. Peter Daso was living with his wife in that house who is known as Luja Masunzu. They looked around and found Luja Masunzu fallen at the neighbor's house. She was unconscious with cut-wounds at her hands, mouth and face. They took her to hospital. They heard her saying "Juma Umeniumiza" literally meaning "Juma you have hurt me". After that they arrested the accused person and interrogated him but he denied to be involved in the incident then they handed him to Police.

During cross-examination he informed the accused that, there are many people with the name of Juma in the village and the accused person was one of them. He stated further that, the victim was unconscious she could not be heard properly. The only thing he heard her saying is the name Juma.

At the scene there was Juma Moses and Juma Peter. The accused person had no injury or weapon.

PW2 informed the Court that, he was at Kwimba District Hospital in 27/2/2017 as Clinical Officer. He received a patient who was injured and attended her by stitching her wounds. The patient was cut in the mouth, neck and she could not speak. The patient was hospitalized and later allowed to go home.

PW3 is the police officer. On 25/2/2017 he went to the scene of crime together with other police officers and found blood scattered in the kitchen. The hamlet chairman told them that he had gone to the scene of crime but he didn't the victim was already taken to the hospital so he followed them to the hospital. On 28/7/2017 he was given police file for investigation and on 3/3/2017 he went to Bugando Hospital to record the victim's statement. He saw the victim with the wound on her mouth and head. The victim told her that she was invaded by two people who assaulted her with panga and she managed to identify the accused person. However, the victim did not testify in Court and her recorded statement was not admitted as evidence due non-compliance with the law.


At the end of prosecution case, Mr, Njau moved the Court under section 293 of the Criminal Procedure Act, Cap. 20 (R.E.2019) to the effect that, the prosecution's case has not been made out sufficiently to require him to make the defence. On her part, Ms. Lazaro was of the view that the accused has a case to answer. However, she left it for the Court to make a determination on the submission of no case to answer.

Having examined the evidence adduced by the prosecution witnesses in totality, this Court is in agreement with the submissions made by Mr. Njau. The only evidence purporting to connect the accused person with this offence is that of PW3, a police officer who recorded the victim's statement which is not sufficient to establish the offence charged.

In the circumstances, I find that the accused has no case to answer and I hereby discharge him from the offence charged. The accused to be released from custody with immediate effect unless held for other lawful causes.

It is so ordered



  
K.N.ROBERT  
JUDGE  
3/6/2022