

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE DISTRICT REGISTRY OF ARUSHA

AT ARUSHA

CRIMINAL SESSIONS NO. 12 OF 2022

(Original Criminal Case No. P.I No. 8 of 2021 In the District Court of Arusha)

REPUBLIC.....COMPLAINANT

VERSUS

JASMINE D/O WILSON @ SALAH.....ACCUSED PERSON

SENTENCE

13/07/2020 & 18/07/2022

In this court, the accused person, Jasmine Wilson @ Salah stood charged with the offence of Murder contrary to section 196 of the Penal Code Chapter 16, Revised Edition, 2019 ("Code"). However, when the case was called on for plea taking, the accused via Miss Witness her learned counsel, offered a plea of guilty to the offence of Manslaughter c/s 195 and 198 of the Code.

Brief facts of the case being that; the accused was a step mother to the deceased (Irine Reuben @ Thomas) a child of three (3) years old. On the 7th May 2021 at Sanawari, the accused person went to one Magdalena Simion to ask for assistance as the deceased was seriously sick. Upon

their arrival at the accused's residence, they found the deceased in a very worse condition and they quickly rushed her to Mt. Meru Hospital. The deceased died of physical abuse which caused injuries on the deceased's head and on her right hand.

This court having convicted the accused person of the offence of manslaughter, it is now the duty of the court to assess an appropriate sentence by considering both aggravating and mitigating factors. Ms: Mtenga, the learned state attorney for the Republic though did not have any record in relation to the accused's previous conviction yet she prayed for imposition of unmerciful sentence against the accused on the following reasons; that, the deceased was vulnerable person who could not have the capacity to defend herself, that the deceased's death was due to the accused's sadistic conducts of harassing the deceased and continuous denial of food.

The accused through her learned counsel, Ms. Witness advanced the following mitigating factors; that the accused is too young, that she pleaded guilty to the offence, that she is the first offender and that she has been under custody since 7th May 2021. Miss. Mtenga proposed for a sentence of a medium level since the accused was also not matured.

Considering the aggravating factors, that, the deceased was a vulnerable person (her age at the commission of the offence was three years), hence, the deceased was unable even to defend herself from the accused's acts which were considered sadistic and inhuman conducts as rightly argued by the learned counsel for the Republic. The level of seriousness of the offence is therefore high level whose sentence starts from ten (10) years jail to life imprisonment however considering the age of convict, that level should also be of the lowest side.

Gathering from the sequence of events in the killing of the deceased, this court is wholly convinced that the accused ought to have anticipated the outcome of her wrongful acts since the post mortem report revealed that the deceased had some healed wounds of irregular margins together with some healed burn injury scars on the right hand the accused irrespective of her age (eighteen years old) she ought to have known of the consequences of such unlawful and unjustifiable acts to a young child of the age of three years must have impact to her health. I have however considered the accused person's mitigating factor that, she is the first offender, the factor which entitles her a merciful sentence. Similarly, that she was immature at the time of commission of the crime, (her age was eighteen (18) years old at the time she committed the crime). Considering

vulnerability of the deceased and her age as well as the sadistic acts of the accused, the actual sentence that may meet ends of justice in this unlawful and killing of the innocent child is the term of **twelve (12)** years imprisonment. However, the accused must benefit from her plea of guilty as per the Tanzanian Sentencing Manual at page 24, a reduction of 1/3 from the actual sentence is imposed herein. This reduction follows the plea of guilty of the accused person at the first stage of the proceedings, that is when the matter was placed before me for plea taking therefore the term of **twelve (12)** years imprisonment is therefore reduced to **eight (8)** years imprisonment.

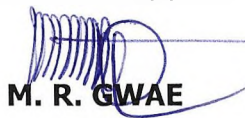
Consequently, the accused person, **Jasmine Wilson @ Salah** is hereby sentenced to **eight (8)** years imprisonment in order to be operate as deterrence to step mothers with that deplorable altitudes and the public at large, the imposed sentence to start running from when she was placed in custody that is on the **8th June 2021**.

Order Accordingly.


M. R. GWAE
JUDGE
18/07/2022

Court: Right of appeal to the Court of Appeal of Tanzania fully explained to the parties.




M. R. GWAE
JUDGE
18/7/2022