

**THE UNITED REPUBLIC OF TANZANIA
JUDICIARY
IN THE HIGH COURT OF TANZANIA
MBEYA DISTRICT REGISTRY
AT MBEYA
CRIMINAL SESSIONS CASE NO. 41 OF 2022**

REPUBLIC

VERSUS

MATINDA SENDAMA @ NEGA

SENTENCE

KARAYEMAHA, J

The accused person during the traditional feast known Chagulaga held on 2/11/2021 without malice aforethought caused the death of Sufi Simon. He killed him in the course of fighting after the deceased had stopped the power tiller, the accused was driving from his brother's marriage ceremony, and wanted to marry one of his (accused) sister in course of Chagulaga ceremony. The deceased and his company stopped them but the accused and his relatives who were with him retaliated. In the course of a fight to prevent the deceased from taking his sister as a wife, it is stated, he injured the deceased on the left leg. That event led to excessive bleeding and later due hemorrhage, the deceased died. These in brief are the circumstances that led to the deceased's death.

The death, therefore, occurred in a situation where the accused person and the deceased were in the hot struggle to grab and protect.

I have also taken into account that the part of the body attacked is the leg which in my view is not a dangerous one. In addition to that, I have considered the mitigating factors that the accused is a first offender, has pleaded guilty intimating remorseful heart, his age (24 years) and surrendered himself to Lwanji Village Executive Officer hence cooperated with the authorities. I am also convinced that the accused has learnt the hard lesson for the period he has been behind bars and on bail but psychologically disturbed.

In consideration of all these factors, the law, that is, the Penal Code (Cap 16 R.E 2022) has clearly provided for the sentence of life imprisonment under section 198. However, a further consideration on the seriousness of the offence, in my considered view, it falls under the low level where the accused used a dangerous weapon in protecting his sister from being taken as a wife through Chagulaga ceremony. In that situation, the sentence range is conditional discharge to imprisonment for 4 years.

Considering all these factors utmost the truth that the accused is now 24 years old, and still has some useful life ahead of him and

productive young man of the family and society at large, I hereby sentence the accused person, namely, **Matinda Sendama @ Nega**, to a conditional discharge under section 38 (1) of the Penal Code, (Cap 16 R.E 2022) on condition that, he should not commit any Criminal offence for a period of twelve months (12) from the date of this order.

The accused person is warned in terms of section 38 (3) of the Penal Code (Cap 16 R.E 2022).

It is so ordered.



A handwritten signature in black ink, appearing to read "J. M. Karayemaha", is written above a horizontal line.

J. M. Karayemaha
JUDGE
28/07/2022