

**THE UNITED REPUBLIC OF TANZANIA
JUDICIARY
IN THE HIGH COURT OF TANZANIA
SUMBAWANGA DISTRICT REGISTRY
AT SUMBAWANGA
CRIMINAL JURISDICTION
CRIMINAL SESSION NO. 26 OF 2022**

REPUBLIC

VERSUS

SALOME ^D/o MEZANGURU

JUDGMENT

Date of Last Order: 01/08/2022

Date of Judgment: 01/08/2022

NDUNGURU, J

The accused before this court is arraigned for offence of Manslaughter Contrary to Section 195 and 198 of the Penal Code (Cap 16 R.E 2019). It is alleged by the prosecution that on 9th day of September, 2021 at Isesa village within Sumbawanga Municipality in Rukwa Region the accused did cause the death of one LESTUS s/o MAFUNDA. When the charge was read to her she pleaded guilty to it. The prosecution adduced facts constituting the offence of Manslaughter. Further the court explained to the accused facts adduced. When given opportunity to state

on the correctness of the facts or otherwise, the accused admitted and stated the facts are correct added that in what happened.

From the above circumstances it is their court's finding that the accused plea is unequivocal. I hereby convict the accused person for the offence of manslaughter Contrary to Section 195 of the Penal Code from her own plea of guilty

Sgd: D.B. Ndunguru

Judge

01/08/2022

PRE SENTENCE HEARING

Ms. Kashindi Aman State Attorney: My lord we don't have previous criminal record of the accused person. But we pray the court to look at the circumstances in which the offence happened and give appropriate sentence.

Mr. Chambi Defence Counsel: My lord, the accused is the first offender as submitted by the prosecution side that such a factor be considered.

Further the accused a young girl of 32 years. The deceased is her husband whom they lived peacefully for all their life and they managed to have four children who are under her custody now. In all their life it appears they loved each other so much to the extent that they were all the time playing jokes as lovers expressing their love to each other. It is from

SENTENCE

That the accused before this court is charged with the offence of Manslaughter Contrary to Section 195 and 198 of the Penal Code.

The maximum range of the sentence of this offence in law is life imprisonment. The law does not provide any minimum sentence further guidance to that. But from the statutory working the sentence of life imprisonment is not coached on mandatory terms. The court has the power to reduce the sentence basing on some of the factors as hereunder.

I have tried to consider the serious level of the offence and sentence range of the offence. From my assessment I am of the firm view that this is the low level seriousness of the offence on the reason that the death was caused by recklessness or negligence act on the part of the accused.

There is no aggravating factors which may increase the sentence within the range like use of weapon, motivated revenge, high degree of preparation etc.

I have further taken into account the accused personal circumstances and other individual factors relevant to sentence, such that, she has been very cooperative to the investigation authorities and the victim himself after the event, her age that she is only 32 years of the age, the family circumstances that she is depended by four young children and her

mother. But of more important have considered the impact of any sentence upon then; I have further considered her being the first offender.

I have farther considered the fact that the accused is the first offender she has no record of breaching court orders, the facts which have never been challenged by the prosecution.

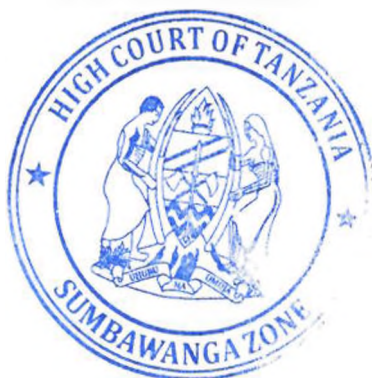
I have further taken into account the accused plea of guilty as merited for due to the fact that. That it is in the public interest as it has saved the court's time and expenses in conducting full trial. See **Charles Mashimbo Vs. Republic (2005) TLR 90.**

I have further considered the time the accused has spent in remand custody waiting for her trial. From the record she has spent one years in custody.

Taking all the above into account, I am of the firm view that this is a fit case for the court to exercise leniency as I do hereby do.

It is therefore the fact that in the law ranges the sentence being imprisonment for 4 years to conditional discharge. I hereby sentence her to absolute discharge as per section 38 of the Penal Code.

It is so ordered.



D. B. Ndunguru
D.B. NDUNGURU

JUDGE

01/08/2022