

**THE UNITED REPUBLIC OF TANZANIA**  
**JUDICIARY**  
**IN THE HIGH COURT OF TANZANIA**  
**SUMBAWANGA DISTRICT REGISTRY**  
**SITTING AT MPANDA**  
**CRIMINAL JURISDICTION**

**CRIMINAL SESSION NO. 08 OF 2022**

**REPUBLIC**

**VERSUS**

**OSCAR S/O MBAGA @ MATHIAS**

**JUDGMENT**

*Date of Last Order: 12/08/2022*

*Date of Judgment: 12/08/2022*

**NDUNGURU, J**

The accused person stand charged with an offence of Manslaughter contrary to section 195 (1) and 198 of the Penal Code (Cap 16 R.E 2019). It is alleged by the prosecution that on 20<sup>th</sup> day of January, 2021 at Dirifu village within Mpanda District in Katavi Region, the accused unlawfully caused the death of one ELISHA S/O WACHU. When the

charge/information on the said offence was read and explained to him, the accused pleaded guilty.

Following is the plea of guilty the facts constituting the offence of Manslaughter was read to explain to him. The accused was further given opportunity to admit or state anything on the correctness of the facts. The accused person admitted all the facts were correct saying that is what happened.

In the Circumstance I find the accused plea is Voluntary thus Unequivocal. I here convict the accused person for the offence of Manslaughter Contrary to section 195 of Penal Code of his own plea of guilt.

**D.B.NDUNGURU**

**JUDGE**

**12/08/2022**

**PRE SENTENCE HEARING**

**Ms. Hongera Malifimbo - State Attorney:** My lord we don't have previous criminal record but the accused be punished in the following reasons:-

That the accused has lost life of the deceased while he had no such right. The deceased death is a loss to the nation. But also the deceased had children depending on him. That the act of the accused was in human

to prohibit him eat just because he did not contribute. The accused lacked love to the deceased. That the accused had right to take legal action when found have been beaten instead of pushing him onto the hole. Taking into account all that we pray the accused be punished according to the law. That is all.

**Mr. Filbert Mkupilo - Defence counsel:** My lord we mitigate as following; the accused before your lordship is very remorseful for what happened.

The accused is 33 years he is still young, he is manpower in production. The accused has a wife and two children the 1<sup>st</sup> child is 8 years old while the 2<sup>nd</sup> is 5 years. In his family he is the first born the whole family depending him.

The accused is first offender as submitted by the prosecution. He has been in remand prison for one year and six months and 24 days to him it is a sufficient lesson.

Further the accused has pleaded guilty thus saving time and expenses to conduct trial. Yet the cause of death was fighting as the facts provided it is the deceased who started by hitting the accused on the nose.

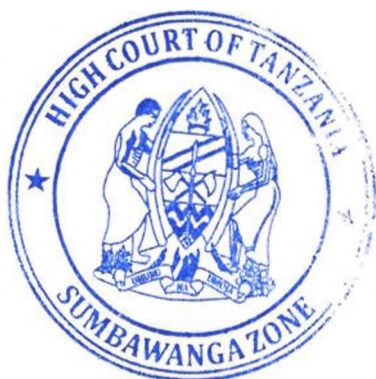
That they were fighting near the hole and in the fight they were pushing each other thus even the accused would have fallen into the Whole, we pray for leniency of the Court. That is all.

account. In determining the level of seriousness of the offence; I have considered the nature and circumstances in which the offence was committed. The facts reveal that the offence resulted have also taken into account the culpability of the offender; that he had no any motive of committing such an offence. Taking all that to my assessment the offence is seriousness is of low level. The level attracts the lowest level of sentence. The sentence range in this level from four (4) years imprisonment to conditional discharge.

I have also considered the mitigating factors as there was aggravating brought to my attention. Together with mitigating factors brought to my attention, but I consider the act of running away and leaving the deceased lying helpless make me find the accused had the high degree of responsibility for the offence though not pre – meditated.

In the premises, I hereby sentence the accused persons to serve (4) four years imprisonment for the offence of Manslaughter as per section 198 of the Penal Code (Cap 16 R.E 2019).

It is so ordered.



  
**D.B. NDUNGURU**

**JUDGE**

**12/08/2022**