

THE UNITED REPUBLIC OF TANZANIA
JUDICIARY
IN THE HIGH COURT OF TANZANIA
SUMBAWANGA DISTRICT REGISTRY
SITTING AT MPANDA
CRIMINAL JURISDICTION
CRIMINAL SESSION NO. 07 OF 2022

THE REPUBLIC
VERSUS
ABELI ^S/o GITI MAYUNGA
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 and 198 of the Penal Code (Cap 16 R.E 2019). It is alleged by the prosecution that on 07th day of February, 2021 at Ikaka village within Tanganyika District in Katavi Region, unlawfully caused the death of one MWIZARABI D/O NKINGWA @ LUGEMBE @ ELIZABETH. The accused person pleaded guilty when the charge was read and explained to him.

The facts constituting the offence were adduced. The same were read and explained to the accused by the Court. The accused further admitted the facts to be correct.

Taking into account all the above I find the plea of guilt offered by the accused is unequivocal. I accordingly convict the accused for the offence of the Manslaughter Contrary to Section 195 and 198 of the Penal Code from his own plea of guilt.

Sgd: D.B. Ndunguru

Judge

12/08/2022

PRE SENTENCE HEARING

Ms. Hongera Malifimbo: My Lord we don't have previous criminal record but we pray to be severe punished due to the following reasons:-

That the accused had no right to eliminate the life of the deceased in any way. The deceased was the wife of the accused he was not forced to marry her. Thus he had to love her.

The deceased was still young, she was 38 years old, thus a national man power. She was depends by her old mother who lived with her.

Further the accused was just guessing, that the deceased was making love with the man. That the accused could have divorced the deceased in steady of killing. That the accused and the deceased were in love for only a year. We pray the accused be severely sentenced.

That is all.

Ms. Sekela Amulike Defence Counsel: My Lord we pray for the leniency of the court. That the accused is the first offender.

The accused has been very cooperative to the investigation organ. He has pleaded guilty. The accused is suffering from epilepsy. He has two children depending on him.

Further the accused has stayed in remand prison for 1 year and five months, to him it is a sufficient lesson. We thus pray for the leniency of the court.

SENTENCE

The accused person is convicted of the offence of Manslaughter contrary to section 195 and 198 of the Penal Code (Cap 16 R.E 2019). The statutory sentence for the offence is life imprisonment. Thus is provided for Under Section 198 of the Code. Life imprisonment is the maximum sentence; The law does not provide for minimum sentence. There is no any statutory guidance to that effect.

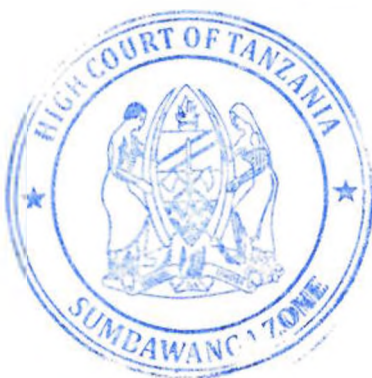
Though the law does not provide for the minimum sentence but the wording of the provision are not coached on mandatory term, this means the sentence is discretionary. That means looking at the circumstances of the offence the court can impose lesser sentence. There are factors which guide the court in imposing sentence to the convict.

In the case at hand, I have considered the gravity of the offence, the nature and circumstances in which the offence was committed that the deceased did beat the deceased having red handed found her committing adultery at his home compound. I have further considered culpability of the offender that he did not anticipate for that situation. He had no prior preparation to commit the offence but is gender based violence. Due to all that I find the offence falls under medium level seriousness. The sentence range in this level is four (4) years to ten (10) years imprisonment.

I have further considered relevant aggravating that the accused was just guessing that the deceased was making love and the mitigating factor that the accused acted under provocation, and that he is the first offender that he has pleaded guilty and that he has been in remand for a year as submitted by the defence counsel.

I hereby sentence the accused to serve five (5) years imprisonment in jail for the offence of Manslaughter Contrary to section 195 and 198 of the penal code (Cap 16 R.E 2019).

It is so ordered.




D.B.NDUNGURU

JUDGE

12/08/2022