

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(CRIMINAL COURT)**

IN THE DISTRICT REGISTRY OF MUSOMA

AT MUSOMA

**IN THE MATTER OF AN APPLICATION FOR COMMUNITY
SERVICES ORDER**

Misc. CRIMINAL APPLICATION No. 42 OF 2021

(Arising from Criminal Sessions Case No. 88 of 2021)

PRISCA YOHANA APPLICANT

Versus

REPUBLIC RESPONDENT

RULING

14.09.2022 & 14.09.2022

Mtulya, J.:

In the present application, **Prisca Yohana** (the applicant) was prosecuted for Attempt to Murder (the offence) contrary to section 211 (a) of the **Penal Code [Cap 16. R.E 2019]** (the Code) and was convicted of the offence following her unequivocal plea of guilty on the information and facts which were produced in court during the plea taking and preliminary hearing of the case.

At the end of the proceedings, the court sentenced the applicant to two (2) years imprisonment following considerations of mitigations and antecedents which were registered after the conviction. She was also ordered to pay compensation to the victim, Mr. Naftali Issabuk, Tanzanian Shillings amounting to Three Million (3,000,000/Tshs.).

The applicant appeared today in this court praying for an order to substitute her custodial sentence for the remaining period of imprisonment in favour of community services. The applicant contended that she is a person of good character and has a total of eight (8) children at her home residence who are solely depend on her and also expects to bring into this world the ninth (9th) child this coming December 2022. Finally, she prayed this court to substitute the remaining period of custodial sentence in favour of community services order.

The move was supported by learned State Attorney, Mr. Frank Nchanila, who appeared for the respondent, stating that the applicant qualifies for the order, and Ms. Joyce I. Rwegalula, Social Welfare Officer, from the **Probation and Community Services Department of Mara Region**, argued that the applicant was recommended by the prisons authorities and the practice is allowed under the Code, **Criminal Procedure Act** [Cap. 20 R.E. 2019] (the Act), and **Community Service Act** [Cap. 291 R.E. 2002] (the Community Services Act).

According to Ms. Rwegalula, the **Social Inquiry Report** on the applicant displays the applicant has permanent abode and reliable sureties, and if the application is granted, the applicant shall save costs of the Government as she will work for four (4)

hours per day in any government institution without any pay. In the end, Ms. Rwegalula submitted that the order on community services will also assist the applicant to enjoy good health care for the best interest of the ninth (9th) child.

I have perused section 3 of the **Community Services Act**, and Regulation 18 (2) of the **Community Service Regulations, GN, No. 87 of 2004** (the Regulations) and considered the **Social Inquiry Report** admitted in the present application as **Attachment A**, and noted the best interest of the expected child enacted in section 4(2) of the **Law of the Child Act [Cap. 13 R.E. 2019]** (the Law of the Child Act), and saving costs of this Government, I am moved to grant the application.

However, in order to cherish the order, the applicant must register two (2) reliable sureties citizens of the **United Republic of Tanzania** as part of implementing section 3(1) of the **Community Service Act**, and comply with all laws of the land, and in default of the same, section 38(3) of the Code shall to take its course.

Order accordingly.




F. H. Mtulya

Judge

14.09.2022

This ruling was delivered in presence of the applicant, Prisca Yohana, learned State Attorney, Mr. Frank Nchanila for the Republic and in the presence of the Social Welfare Officer, Ms. Joyce I. Rwegalula for the **Probation and Community Services Department of Mara Region.**



F. H. Mtulya

Judge

14.09.2022