

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(IN THE SUB-REGISTRY OF MWANZA)**

ORIGINAL JURISDICTION

AT MWANZA

CRIMINAL SESSION CASE NO. 121 OF 2022

THE REPUBLIC

VERSUS

JESCA D/O BALITAZALY

PASKALI S/O EVARIST

ORDER/SENTENCE

31st October, 2022

DYANSOBERA, J:.

The accused are first offender. They have readily pleaded guilty to the charge signifying contrition and this has, correctly submitted by defence counsel, save court's previous time and expense. Both accused came into conviction with the law while chastising their beloved daughter for her delinquent behaviour. It has been demonstrated on part of the defence that the 1st accused is an HIV positive and is on medication.


Further that both accused have dependents, that is not only their parents who are senile but also five children dependent on them. It has been also demonstrated that after the chastisement and when they heard a voice of call from the deceased they went for assistance and

rushed her to the health but alas. Fortunate was not on their side as they were informed that their daughter was already dead.

The accused persons lost their beloved daughter while they were in the endeavour of correcting her. After considering all these factors and after taking into account the fact that having regard to the circumstances including the nature of the offence and the character of both accused persons, I am of the opinion that it is inexpedient to inflict punishment. I make an order, under subsections (1) and (2) of section 38 of the Penal Code [Cap. 16 R.E. 2019] for conditional discharge in that the 1st and 2nd accused commit no offences relating to assault within twelve (12) months from today. The accused are further addressed in terms of subsection (3) of Section 38 of the Penal Code.

Order accordingly.




W.P.-Dyansobera
Judge
31.10.2022