

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

AT GEITA

ORIGINAL JURISDICTION

CRIMINAL SESSIONS CASE 35 OF 2019

THE REPUBLIC

VERSUS

MIHAYO MATHIAS @ SWEA..... ACCUSED

SENTENCE

29th September, 2022

Kahyoza, J.:

The accused person, was arraigned with an information of murder, he pleaded to the lesser offence of manslaughter. He has been found guilty and convicted upon his own plea of guilty with the information of manslaughter contrary to sections 195 and 198 of the Penal Code, [Cap.16 R.E. 2022]. The offence of manslaughter, carries a life imprisonment as a maximum sentence.

The convict killed his wife suspecting her of having extra marital relationship with a man he found her with in the bush. He did not catch them *in flagrante delicto*. He found them standing in the bush. They went home while quarrelling. The deceased tried to escape at night the accused

person followed her and inflicted cut wound her on the neck. The post mortem indicated that the accused person inflicted deep cut wound. Its depth was for 4cm. I find the level of the seriousness of the offence to be high level the accused person killed a woman, a vulnerable person. He used a panga, dangerous weapon though he struck once. High level of seriousness of the offence of manslaughter attracts a sentence between the range of 15 years and life imprisonment. I find the appropriate sentence to be 20 years' imprisonment.

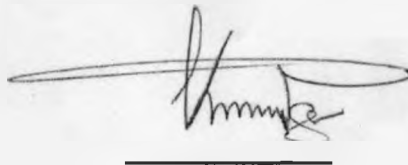
The prosecution adduced five aggravating factors; **one**, the accused used dangerous weapon and inflicted wounds on the deceased's sensitive part, which is on the neck; **two**, that the accused escaped after he committed the offence and hid the panga; **three**, that the accused act was violence against women and that, the deceased was still a younger lady.

The defence advanced several mitigating factors, which are as follows; **one**, that the accused is the first offender and remorseful; **two**, the accused has stayed in the custody for more six months; **three**, the accused person has very old parents who depended on him; **four**, that the accused person is younger, energetic and productive, the country may depend on in future.

Lastly, that the accused person became angry after he saw the deceased, his wife with another man in the bush and the man escaped. They were not in the bush for any other reason except having sex.

Given the mitigating factors advanced and after considering that the accused used dangerous weapon, I found the aggravating factors carrying more weight than the mitigating factors. The mitigating factors will only entitled the accused person a reduction of two years only. Thus, I will sentence the accused person to 18 years' imprisonment.

The accused person pleaded guilty, saving Court's time and costs, and he is the first offender, hence entitled to a guilty plea discount of 1/3 to the sentence of 18 years. For that reason, the accused person shall serve an imprisonment of sentence of 12 years, subject to reduction of the period he has spent in custody, for the offence of manslaughter u/s 195 and 198 of the **Penal Code** [Cap. 16 R. E. 2022].



John.R.Kahyoza.

Judge.

29/9/2022

Court: Right of Appeal against the sentence explained. If the accused person intends to appeal, he will have to lodge a notice of appeal within 30 days from today.



A handwritten signature in black ink, appearing to read "John R. Kahyoza".

John.R.Kahyoza.

Judge.

29/9/2022