THE UNITED REPUBLIC OF TANZANIA

JUDICIARY

IN THE HIGH COURT OF TANZANIA

(DISTRICT REGISTRY OF DODOMA)

AT DODOMA

SITTING AT SINGIDA

CRIMINAL SESSIONS CASE NO. 57 OF 2021
THE REPUBLIC
VERSUS
OMARI S/O ALLY JUMA

RULING

Date of Last Order: 06/12/22
Date of Ruling: 06/12/22

Mambi, J.

The accused Person (**OMARI S/O ALLY JUMA was** earlier charged with murder of his wife but in his plea, he admitted to have caused the death of the deceased without malice. The prosecution had no objection on the accused admission for an offence of manslaughter. The accused was thus charged of manslaughter c/s 195 of the Penal Code, Cap 16 [R.E.2019].

The prosecution read the facts on charge of Manslaughter and the accused admitted all the facts. The prosecution facts briefly show that the accused did murder the deceased one Christa d/O Edward on the

1

13TH of August in 2018 at Chikuyu area, Chikuyu Ward within the District of Manyoni and Singida region.

Since the accused had pleaded guilty on the charge of manslaughter and basing on the charge and flanking facts from the prosecution, the accused was convicted of an offence of **manslaughter c/s 195 of the Penal Code Cap 16 [R.E. 2019]**.Section 195 of the *Penal Code Cap 16 [R.E. 2002]* provides that:

> *"(1) Any person who by an unlawful act or omission causes the death of another person is guilty of* **manslaughter**.
>
> *(2) An unlawful omission is an omission amounting to culpable negligence to discharge a duty tending to the preservation of life or health, whether the omission is or is not accompanied by an intention to cause death or bodily harm".*

Before sentencing the accused, the prosecution submitted that they have no any previous criminal records for the accused. The State Attorney Ms. Elizabeth Belabala and Mr Songoro thus prayed this court to consider the punishment for the accused. The Defence through the defence Counsel Chigongo & Radhiya prayed mitigation to this court basing on the various reasons.

Having convicted the accused with an offence of manslaughter, the main issue in my view is to consider the appropriate sentence.

Having carefully considered the submissions from both parties including mitigation from the defence, I now revert to consider an appropriate sentence for the accused persons. I have also read the facts and the circumstance of the death of the deceased to enable me to decide the appropriate sentence. The records reveal that the death was the result of quarrel between the accused and his wife who were all drunkard.

The offence of manslaughter under which the accused persons stand charged is punishable for maximum of life sentence under section 198 of the Penal Code Cap 16 [R.E. 2019]. Indeed section 198 provides that

2

*"Any person who commits manslaughter **is liable** to imprisonment for life".*

Reading between the lines on the above provision of the Penal Code uses the words **"liable"** that means life imprisonment is the maximum sentence but the court has discretion to impose lesser offence depending on the circumstance of the case.

In our case, given the fact that the death resulted from the quarrel and it was the first offence for the accused as admitted by the prosecution under the trial records, the court find it appropriate to consider lesser sentence.

The records reveal that the accused person had conflict, with the deceased but unfortunately such quarrel led to her death. This show the accused person had no malice. Various decisions of the court show that where it is proved that the death resulted from fight or quarrel, the court should consider opting for an offence of manslaughter.

I have also taken into account the time spent by the accused at remand prison (five years).

Basing on those factors and the circumstance of the deceased death, I find it proper for the accused persons to undergo the following sentence.

SENTENCE

In terms of **section 198** of the **Penal Code Cap 16 [R.E. 2019]** I the accused person is sentenced to one year imprisonment.

A. J. MAMBI

JUDGE

06/12/2022

Ruling delivered this day of 06th December, 2022 before all parties.

A. J. MAMBI

JUDGE

06/12/2022