

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(IN THE DISTRICT REGISTRY OF SHINYANGA)
AT SHINYANGA**

CRIMINAL SESSION CASE NO. 35 OF 2020

REPUBLIC

VERSUS

SULEIMAN MASALU @ MWITA

JUDGMENT

Last order on 21st November, 2022

Judgment date on 14th December, 2022

MASSAM, J

The accused person, one Suleiman Masalu @ Mwita stands charged with the offence of Murder contrary to Section 196 and 197 of the Penal Code, Cap 16 (Revised Edition 2002).

It is alleged by the prosecution that, on 24 December 2017 at kabale village, within Kahama District, in Shinyanga Region, the accused person murdered one Laurent Joseph.

The facts presented by the prosecution which gave rise to this trial are that at on the material date, the victim's neighbour heard some voice like someone was in trouble, early in the morning he went to the house of his neighbour[victim] where he saw the door locked from outside using padlock which was covered with blood, so he reported the matter to the village leaders who informed the police officers who later arrived at the scene of crime, and broke the door inside the room they found deceased died and his body was covered with blood, the body was conducted postmortem and result shows that the cause of death was due to hypovolemic shock due to severe bleeding due to cut wounds.

In the cause of investigation accused person was arrested while being treated for hand injury at kina Mapula dispensary at Kokola, he was brought to the police station and interrogated on the death of the deceased, later on the search was conducted in his room at Rose guest house where by the policemen recovered various belongings of the deceased including keys, jewelry weight scale, the said keys later on used to unlocked the padlock at the scene of the crime, the said padlock and specimen of accused was taken to the Government Chemist where the same examined and the report come with the positive results.

When the information of murder was read over to the accused person during Plea taking and Preliminary hearing, he pleaded not guilty to the information.

Further, on 17th November, 2022 when the case came up for trial, the charge of murder was reminded to the accused, again he pleaded not guilty thereto. In discharging the duty of proving the charge against the accused, the prosecution summoned eight witnesses and tendered four exhibits. The evidence of the prosecution and defense side can be summarized as follows;

Yona Mafie [PWI] testified that he is Deputy Regional criminal officer of Rufiji since May 2022 but before that he was OC CID at Kahama Msalala, his daily duty was investigation and other police duties ,on 24/12/2017in the morning when he was in the office he received a call from village executive officer of kakola that in the house of the victim one Laurent Joseph the door was closed but there was a lot of blood coming from inside to outside of the said house, so he took his fellows and a doctor to go to the scene, in the scene he found many people gathered so they decided to broke the door of the said house in order to enter inside the house, they decided to broke it through its frame, inside the house they

found deceased body having a lot of wounds in all his body, so doctor investigated the body and the result show that he was already died. Again, he took some sample of the blood of deceased for further investigation, later on sketch map was drawn.

He added that later on, the VEO got a call from Kwasadi hospital informing him that he had a patient who had a big wound on his hand who told him that he was attacked by robbers but he don't have a PF3, so he directed D/CPL Alfred to go to the said hospital and took that patient to the police station for further interrogation, in the scene they wrote witnesses statement and later on they handed over the body to the relatives for burial.

On 25/12/2017 D/CPL Alfred went to the house of accused person to search where he found some keys which he took it to the house of deceased and open the said padlock, in the house of accused also he seized one trouser and the said padlock, the said certificate of seizure was admitted by this court as exhibit P "1" when cross examined by the counsel for defense Mr. Jacob Somi told this court that he was not the one who filled that certificate of seizure but D/Sgt Simon did that.

