

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

**AT BABATI**

**CRIMINAL SESSION NO. 08 OF 2019**

*(Originating from District Court of Babati District at Babati PI. No. 26/2017)*

**REPUBLIC..... COMPLAINANT**

**VERSUS**

**RASHIDI IDDI @ MHINDI.....ACCUSED**

**SENTENCE**

**22/02/2022 & 28/02/2022**

**GWAE, J**

The accused person, **Rashid Idd @ Mhindi** now offender having been convicted by the court on the 22<sup>nd</sup> day of February 2022 of the offence of manslaughter contrary to section 195 & 198 of the Penal Code, Revised Edition, 2002 (Code). After his unequivocal plea of guilty, it is now therefore my duty to determine appositeness of a sentence to be imposed against him.

The offender did unlawful kill one **Joseph Luumi Lagweni @Kasi** (deceased) on the 18<sup>th</sup> day of December 2017 at Boay village within Babati District in Manyara Region on the contention that he was provoked by a direction of solving the matter by way of adjudication issued by one

Zamda Fonte (Qaimanda Hamlet's chairperson) who was chairing the intended settlement of the land disputed involving the offender and deceased. Upon being directed so, the accused suddenly took his knife and deadly stabbed the deceased who attempted to run away from him but in vain.

As rightly argued by the learned counsel for the Republic, the seriousness of the offence against the offender certainly ranks to **high level** manslaughter since the offender had no justification at all to deadly stab the deceased taking into account that, the one who proposed the adjudicative way of solving the dispute between the parties was not the deceased but it was the neutral person, hamlet chairperson, the offender's bitterness or reaction towards the deceased was therefore not justifiable in any means.

More so, the offender used the dangerous weapon that is knife and above all he inflicted the deceased person on the vulnerable part of the deceased's body (right chest).

Despite of the finding above, I am persuaded by the mitigating factors that, the accused is the first offender I have also taken into account of the age of the offender, he is now aged **82** years old, in my view, the age of 82 amounts to the offender's exceptional circumstances

as in the ordinary circumstances, the accused person must be suffering from dotage followed by his ill health as advanced by his counsel and of course he must have rehabilitated during his stay in custody (See Step 4 of the Manual of page 50). After considering the aggravating and mitigating factors the accused is hereby sentenced to **sixteen (16)** years jail, being actual sentence.

Similarly, the accused pleaded guilty to the offence of manslaughter when he was refreshed of the charge of murder immediately before commencement of the trial. This mitigating factor are capable for reduction of the actual sentence to be imposed after considering both aggravating and mitigating factors as per the Sentencing Manual (See page 23-24 of the Manual) by  $\frac{1}{4}$  as he pleaded guilty when the case was called on for trial and not during plea taking.

These mitigating factors are eligible for consideration as per the Manual at Step 4 of page 50 when sentencing.

Basing to the above considerations, the actual sentence is now fixed to **sixteenth (16)** years jail after considering mitigating factors instead of 20 years if the contested trial would be concluded. The sentence to be served is therefore **twelve (12)** years imprisonment after

reduction of ¼ from the actual sentence as per Manua at Page 24 of the Manual whose parts of its guidance reads

The maximum discount **for a plea after the first hearing should be one quarter of the sentence if the case had proceeded to a contested trial.** The discount for a plea on the first day of trial should not be more than one tenth. After the trial has started the reduction should normally reduce further, even to zero (emphasis supplied)".

Basing on the foregoing reasons, the offender, **Ally Daudi @ Ribili** is sentenced to the term of **twelve (12)** years imprisonment effectively reckoning from 18<sup>th</sup> December 2017 as per Step 8 of the Manual

Order accordingly.

  
**M. R. GWAE,**  
**JUDGE**  
**28/02/2022**

**Court:** Right of appeal to the Court of Appeal of Tanzania fully explained to the parties.



  
**M. R. GWAE,**  
**JUDGE**  
**28/02/2022**