

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

AT BABATI

CRIMINAL SESSION NO. 82 OF 2019

(Originating from PI No. 8/2017 in the District Court of Kiteto District at Kibaya)

REPUBLIC.....COMPLAINANT

VERSUS

ALLY DAUDI @ RIBILI.....ACCUSED

SENTENCE

24/02/2022 & 28/02/2022

GWAE, J

I am asked to assess appropriateness of a sentence to be imposed against the accused person now offender, **Ally Daudi @ Ribili** who was initially charged with the offence of murder c/s 196 of the Penal Code Chapter 16, R. E, 2002 ("Code") since June 2017 however on the 24th February 2022 he was convicted of the offence of manslaughter contrary to section 195 read together with section 198 of Code (supra) after his unequivocal plea of guilty.

The offender did unlawful kill one **Idd s/o Jumanne** (deceased) on the 24th day of March 2017 at Orkiushibor village within Kiteto District in Manyara on the course of demanding to be paid his money, Tshs. 7,500/ =as he sold to the deceased and his colleagues some local liquor on the agreement that he could be paid later. The offender became

furious when he unsuccessfully demanded his money from the deceased who had spent a night in his residence on the material date. He sudden took a masaaai cloth and tied the deceased with it. He also took a bottle with oil, poured it to the deceased's body and then set fire. The deceased person died after 3 days while undergoing medication.

Considering the aggravating circumstances as rightly advanced by the counsel for the Republic (**Miss Mgaya-SA**), I am of the considered view that, the substance applied by the offender was dangerous one and his subsequent conducts namely; his act of preventing other people from rescuing the deceased and his escape after he noticed to have been seen while throwing the deceased person's body in a jungle forest constitute seriousness of the commission of the offence to be "**high level**" whose minimum sentence is 10 years jail and its maximum sentence is life imprisonment.

Considering both the accused and deceased were drunk and that he was justified to demand his money from the deceased but ought to be patient since he was promised that he could be paid later on. All these necessitates the actual sentence against the accused to be **twenty (20)** years jail.

Nevertheless, I have really taken into account the mitigating factors advanced by Mr. Masanja that, the accused is the first offender and the one who readily pleaded guilty to the offence expecting the court's mercy during sentencing. It is always the practice of our courts to impose a merciful sentence onto an accused who promptly pleads guilty including confession before proper authorities such as before a justice of peace or police officers or another responsible officer. This position was rightly stressed in **Mashimba vs. Republic** (2005) TLR 90 where the Court of Appeal had these to say;

"The learned trial judge overlooked the fact that the appellant was outrageously provoked by the misconduct of his infidel spouse that the appellant had saved time and expense by pleading guilty and that he had shown contrition for the unlawful killing of his spouse".

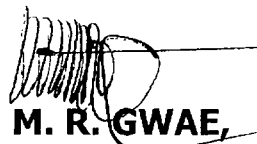
Similarly, I have noted that the accused had been in prison custody since June 2017 making amount of about $4 \frac{3}{4}$ years, the period which must be reduced from the actual sentence (See judicial jurisprudence in Supreme Court of Uganda in **Kizito vs. Uganda** (2002) 2 EA 424).

Therefore, the actual sentence being assessed to be twenty (20) years should therefore be reduced by $\frac{1}{4}$ of it as costs of the accused pleading guilty since he did not offer a plea of guilty during plea taking on

the 26th day of June 2020, the offender is thus remaining with 15 years' imprisonment as well as reduction of 4 ³/₄ years being time spent in the prison custody by directing the service of the actual sentence to run retrospectively.

Basing on the foregoing reasons, the offender, **Ally Daudi @ Ribili** is sentenced to the term of **fifteen (15)** years imprisonment, his service of the imposed sentence, 15 years jail is deemed to have started running since on the 25th March 2017.

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