

**IN THE HIGH COURT OF TANZANIA  
(DODOMA DISTRICT REGISTRY)  
AT DODOMA**

**CRIMINAL SESSIONS CASE NO. 26 OF 2020**

**THE REPUBLIC  
VERSUS  
MKOTYA CHINDIKA**

**RULING**

*Date: 9/3/2022*

**A. Mambi, J.**

The accused person in this matter was charged with an offence of murder contrary to section 196 of the Penal Code Cap 16. However, the accused admitted to have committed an offence without malice and the prosecution had no objection. The accused in his plea, admitted to have caused the death of the deceased without malice. While the Republic was represented by the learned State Attorney Ms Neema, the accused was represented by the learned Counsel Ms Josephine Mzava. In his plea the accused opted for the less offence since there was no malice when the offence was committed.

Upon Plea, the prosecution read the facts on the charge of Manslaughter and the accused admitted the facts. Since the accused person had pleaded guilty on the charge of manslaughter and basing on the charge and flanking facts from

the prosecution, the accused is convicted of an offence of **manslaughter** c/s 195 read together with section 198 of the Penal Code Cap 16 [R.E. 2019].

Reference can be made to section 195 reads as follows:

*“(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**”.*

The sentence for the accused who has committed an offence of manslaughter is provided under section 198 of the Penal Code, Cap 16. The interpretation of the words “*is liable*” imply that the court has discretion to impose a lesser sentence than that provided by the Act.

Before sentencing the accused person, the prosecution State Attorney submitted that they have no any previous criminal records for the accused person. The learned State Attorney thus prayed this court to consider the punishment for the accused. The Defence through the defence Counsel Ms Josephine prayed mitigation to this court basing on the various reasons.

One of the reason was that the accused did not have malice in committing the offence. She also mitigated that the accused had stayed for almost eight years in prison meaning that he had learnt a lesson.

Having convicted the accused with an offence of manslaughter, I will now consider the appropriate sentence. I have considered the submissions from both parties including mitigation from the defence. I have also read the facts and the circumstance of the death of the deceased to enable me to consider the appropriate sentence.

It should be born in mind that the offence of manslaughter under which the accused stands charged is punishable for maximum of life sentence under section 198 of the Penal Code Cap 16 [R.E. 2019]. It is on the records that prior to the deceased death.

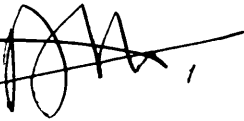
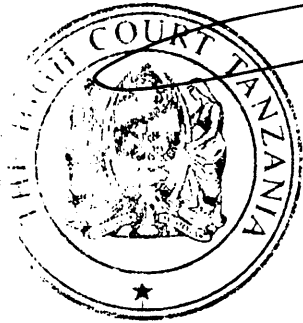
The position of the law and case studies are clear that where it is proved that the death resulted from circumstances (such as quarrel, fight or insanity) that are similar to the situation in this case, the court should consider opting for an offence of manslaughter. In the matter at hand, it is clear that the death of the deceased was a result of quarrel with her husband accused.

I have also taken into account the time spent by the accused at remand prison (almost eight years). In my view the time spent by the accused under custody warrants this court to believe that he has learnt enough lesson.

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

**SENTENCE**

The accused sentenced to serve one year imprisonment.

  
The seal of the High Court of Tanzania is circular. It features a central emblem with a lion and a zebra, surrounded by the text "THE HIGH COURT TANZANIA". A small star is positioned at the bottom center of the seal.

**A. MAMBI**

**JUDGE**

**9/3/2022**