

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(IN THE SUB-REGISTRY OF MWANZA)

ORIGINAL JURISDICTION

AT MWANZA

CRIMINAL SESSION CASE NO. 159 OF 2021

THE REPUBLIC

VERSUS

JENIFER D/O ALFONCE

ORDER/SENTENCE

I have considered the following factors.

First, as stated by the learned State Attorney and emphasized by the learned defence counsel, the accused is a first offender. This means that the possibility that she might have come into friction with the law by bad luck cannot be ruled out.

Second, the accused has pleaded guilty to the charge signifying her contrition. Besides, her pleading guilty has saved both time and expenses.

Third, the accused has stayed in remand custody for a year and it is no doubt that she has learnt something.


Fourth, the accused has a child aged two and half years and a custodial sentence would adversely affect that innocent child.

Fifth, it is incomprehensible that a same person could embark on terminating the life of her own innocent child, unless the killing is done in the circumstances explained by the learned defence counsel and elucidated under Section 199 of the Penal Code, that is she was not fully recovered from the effect of giving birth and that the balance of her mind was then disturbed.

I order that under Section 38(1) of the Penal Code Cap. 16 R.E. 2019, the accused be absolutely discharged.

Rights of appeal explained.




W.P. Dyansobera
Judge
11.05.2022