

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(IN THE SUB-REGISTRY OF MWANZA)**

ORIGINAL JURISDICTION

AT MWANZA

CRIMINAL SESSION CASE NO. 06 OF 2022

THE REPUBLIC

VERSUS

FENA S/O JUMA @ BWIRE @ MASOSO

ORDER/SENTENCE

In sentencing the accused I have taken into account the following factors: -


The accused is a first offender. He has pleaded guilty. He has saved time and expenses. The accused, as rightly submitted by his defence counsel, did what a reasonable person could do in the circumstances of the case. The deceased did not only follow the accused armed with a panga but also, he is the one who initiated the fight by assaulting the accused. The accused did not use the lethal weapon like the one the deceased used but a big stick.

There is no gainsaying that to a large extent, the deceased was the author of his fate or as the local saying goes, *siku yake ilikuwa imefika*. Nevertheless, the accused after discovering that the deceased was in a helpless situation had to render some assistance and not to leave the deceased in such a helpless state.

For those reasons, I invoke the provisions of section 38(1) of the Penal Code [Cap. 16 R.E. 2019] and discharge the accused on condition that he commits no offence within twelve (12) months from today.

The accused is also addressed in terms of sub-section (3) of section 38 of the same code.




W.P. Dyansobera
Judge
11.05.2022