

**IN THE HIGH COURT OF TANZANIA
SUMBAWANGA DISTRICT REGISTRY
AT SUMBAWANGA
CRIMINAL JURISDICTION**

CRIMINAL SESSIONS CASE NO. 110 OF 2022

REPUBLIC

VERSUS

FAIDA ^S/O SIMFUKWE.....ACCUSED

JUDGEMENT

When the charge information on manslaughter contrary to Section 195 and 198 of the Penal code was read and explained to the accused, when required to plea, the accused pleaded guilty to the charge.

Upon his plea of guilt, the prosecution adduced facts constituting the offence of manslaughter. The court read and explained the facts to the accused person. Upon explaining the facts, the court then gave the accused an opportunity to state on correctness or otherwise of the facts. The accused admitted the facts and said they are correct. The prosecution tendered Sketch map, Caution statement and postmortem examination report which were admitted in court as exhibits P1, P2 and P3 respectively.




A.A. Mrisha
Judge
08/03/2023

FINDING


The accused **Faida ^s/o. Simfukwe** is arraigned before this court for the offence of Manslaughter contrary to section 195 and 198 of the Penal Code [CAP 16 R.E. 2022].

The facts of the case are briefs that on 14th August, 2022 the accused caused the death of the deceased **Gerald ^s/o. Green@ Sinkala** in the cause of fighting when they were drinking beer at **Alled Sandifolo @ Maembe** shop. The person has unequivocally admitted to the facts which constitute the offence of Manslaughter which he stands charged.

Consequently, this court finds the accused guilty and accordingly convicts him for Manslaughter as charged.

Order accordingly.




A. A. MRISHA
Judge
08/03/2023

PRE-SENTENCE HEARING

David Mwakibolwa – State Attorney: My lord the prosecution has no previous criminal record of the accused before this court. We therefore pray that the accused be punished according to the law. The death of the deceased weakened the economy of the country and also

to his family; he left his wife as a widow. The deceased person was good tax payer in this country. Therefore, we pray a severe punishment to the accused person to be a lesson to the society. That is all My lord.

Tunu Stanley - Advocate: My lord, we pray for leniency for the following reasons: -

1. Accused is the first offender and his has not previous criminal records of the same offence,
2. Accused person is a very young person; when he committed the offence, he was 17 years old and now he is 18 years old. We pray this court to consider the age of the accused when he committed the offence. This Country depends on the young children person to the development of the country.
3. The accused's family depends on him.
4. The accused person pleaded guilty; this shows that the accused repent what he did.
5. The deceased person contributed in this offence in two grounds: -
 - i. The deceased person delayed himself to get treatment; he was injured on 2100 hours but he went to the hospital on 0000 hours that led to failure to get treatment on time.
 - ii. After arriving at the hospital, the deceased was not properly treated.

6. The accused person defended himself when the deceased person slapped him on the face.

I humbly submit My lord.




A.A. Mrisha
Judge
08/03/2023

Order: Sentence to be pronounced on Monday 13/03/2023.




A.A. Mrisha
Judge
08/03/2023

SENTENCE

The accused **Faida ^{s/o} Simfukwe** was found guilty and consequently convicted of Manslaughter upon his own unequivocal plea of guilty. The issue of sentence has considerably exercised my mind, in particular as to what is the proper sentence to be meted to the accused considering the circumstances surrounding the commission of the crime he was charged and ultimately convicted.

I have seriously considered the mitigating factors that the defence has raised in the course of praying for a lenient sentence. This includes the fact that the accused is the first offender with no trouble past; I have

also considered the fact that the accused was convicted upon his own plea of guilty and was consistently admitted his guilty; also from the police.

Further, I considered the fact that the accused is a young person and he committed the offence when he was 17 years old and his family depend on him. I have also taken into account the fact that the accused has been in remand custody for six months and two weeks.

However, the Court of Appeal of Tanzania has also commented on the role of sentencing between the appropriate sentence for the individual and those of society. This was stated in the case of **Benard Kapoyosye v. Republic**; Criminal Appeal No. 15 of 2008 (unreported) *that,*

"We must point out that sentiments aside, sentencing has crucial role to play. In sentencing the court has to balance between aggravating factors, which tends towards increasing the sentence awardable, and mitigating factors, which tends towards exercising leniency, the sentencing court should also balance the particular

circumstances of the accused before it and the society in which the law operates”

Furthermore, there is Tanzania Sentencing Manual for Judicial Officers produced on 31st December, 2019 to assist Judges in sentencing and avoiding discrepancies and also the Manual Assist the Court to adopt sentences to provide consistencies, proportionate, fair and just, for the offence of Manslaughter low levels of sentencing range is put in place at page 55 of the Manual, those manslaughter related to use of unreasonable force in self-defence, the sentencing range is conditional discharge to four years in prison.

Having said so, this accused is hereby sentenced conditional discharge and requiring him to keep the peace and be of good behaviour for the time of twelve (12) months. I find to be deserving given the circumstances of the commission of the crime.

Order accordingly.




A.A. Mrisha
Judge
13/03/2023