

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(IRINGA SUB REGISTRY)
IRINGA.**

CRIMINAL SESSION CASE NO. 93 OF 2022

THE REPUBLIC

VERSUS

CHARSE JONAS @ NYANYAMBA

RULING

19th & 19th October, 2023

I.C MUGETA, J:

Allegedly, the accused killed his wife Candida Upete. He is charged with murder contrary to section 196 and 197 and the Penal Code.

Dr. Amatha Haule (PW3) examined the body of the deceased and concluded that the cause of death is intra abdominal bleeding secondary to ruptured spleen and excessive bleeding secondary to ruptured uterus. She tendered the postmortem examination report as exhibit P1. She said such raptures can be caused by compression with a heavy object.

The test of the prosecution witnesses are Mathayo Rwangi (PW1) and Donatila Michael Nziku (PW2). None of them saw the accused assaulting the deceased to inflict the compression causing damage stated in exhibit P1. They are fellow villagers of the accused and their general

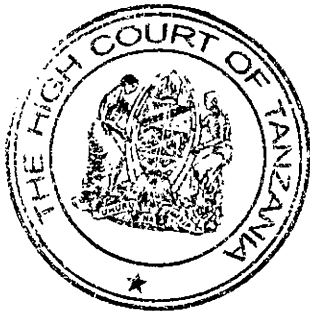
evidence is that on 27/5/2022, they attended a meeting at which they were to establish the deceased estate and agree on a date of the forty reading for the deceased.

They testified further that it was during this meeting one Jatros Nyanyamba, elder brother of the accused, apologized to the mother of the deceased inferring that the death was caused by his young brother who is the accused. According to their evidence the accused who was present said nothing about his brother's views despite Jatros promising to pay Tshs. 2,000,000/= as compensation for the loss caused.

The foregoing is the only evidence marshaled by the prosecution to prove murder.

Murder is a killing of a person by another person with malice aforethought. From the evidence on record it is not established that the death of the deceased was unnatural. PW3 said a ruptured spleen can be caused by compression which may include falling on a hard object. There is no evidence that the accused caused the compression which ruptured the spleen and the uterus. Jatros has not testified to prove his theory that the accused caused the death, so the evidence of PW1 and PW2 on this fact is hearsay.

In the event, under section 293(1) of the Criminal Procedure Act [Cap. 20 R.E 2022], I determine that there is no sufficient evidence to suggest that the accused committed the offence charged. In that regard, I record a finding of not guilty. The accused is, accordingly, acquitted of the offence of murder contrary to section 196 and 197 of the Penal Code.




I.C. Mugeta

Judge

19/10/2023

Court: Ruling delivered in open court in the presence of Vedasto Chonya, learned advocate for the accused, Twide Mangula, Senior State Attorney for the Republic and accused person in person.

Sgd. I.C. Mugeta

Judge

19/10/2023