

**IN THE HIGH COURT OF TANZANIA  
TANGA DISTRICT REGISTRY  
AT TANGA  
CRIMINAL SESSION CASE NO. 41 OF 2022**

**THE REPUBLIC  
VERSUS  
PETER S/O STANFORD**

**RULING**

**Mteule, J.**

**02/10/2023 & 02/10/2023**

This Ruling concern an objection from the defence counsel Mr. Omar Mambosasa who is challenging the admissibility of a postmortem examination report tendered by PW1. The Accused person is charged with an offence of murder contrary to **Section 196 and 197 of the Penal Code [Cap 16 RE 2022]**. It is alleged that on the 30<sup>th</sup> day of December, 2021 at Manzese Kicheba Village within Handeni District in Tanga Region, the accused did murder one Laiton Chasundi. The accused person pleaded not guilty to the charge. The matter proceeded with trial. The Republic was represented by Ms. Maria Kaluse, Mr. Wilfred Mbilinyi, Mr. James Rugaimukamu, Nathaniel Waikama, (State Attorneys). The accused person was represented by Mr. Omar Mambosasa, Advocate.

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While testifying, PW1 one Anna Sylivester Kimea who identified herself as a medical doctor who examined the body of the deceased, tendered the postmortem examination report. Mr. Mambosasa Advocate for the accused person raised objection. The basis of the objection is lack of legs to stand on the said postmortem examination report for lack of hospital receipt to show that it was paid for since all hospital services are paid for except where the fees is excepted.

Prosecution is challenging the merits of the objection on the reason they no legal requirement that postmortem examinations be supported by hospital receipts. As well Mr. Chagana, SA contended that the postmortem examination was performed upon police instructions and since the counsel has not cited any law which prohibits admission for missing receipt then the objection has no merit.

I have considered the submission from both parties. In fact, Mr. Mambosasa has not cited any law which prohibits admissibility of postmortem examination report for missing a receipt to substantiate that that it was paid for. I agree with Mr. Chagama that evidence is guided by the law of the **Evidence Act, Cap 6 of 2019 R.E.** Any prohibition in admissibility of evidence must be specific in the evidence Act. What is

not prohibited in the act means it is allowed. Since the objection lacks legal support, I will consider it to have no merit. Consequently, the objection is overruled, and the postmortem examination report is admitted and marked as **exhibit P1**- it is so ordered.



**Katarina Revocati Mteule**

**Judge**

**2/10/2023**

**Court**

Ruling delivered this 2<sup>nd</sup> day of October 2023 in the presence of Ms. Maria Kaluse, Mr. Wilfred Mbilinyi, Mr. James Rugaimukamu, Nathaniel Waikama, (State Attorneys) for the Republic and the accused person present in person also represented by Mr. Omar Mambosasa, Advocate.



**Katarina Revocati Mteule**

**Judge**

**2/10/2023**