

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**(TANGA DISTRICT REGISTRY)**

**AT TANGA**

**CRIMINAL SESSIONS CASE NO. 28 OF 2023**

**REPUBLIC**

**VERSUS**

**JOSHUA JACOBO MAAMI**

**SENTENCE**

*16/11/2023 & 23/11/2023*

**NDESAMBURO, J.:**

Joshua Jacobo Maami was charged with and found guilty of the offence of Manslaughter contrary to sections 195 and 198 of the Penal Code, Cap 16 R.E 2022 on his own plea of guilty. The particulars of the offence, as brought by the prosecution, alleged that on the 15<sup>th</sup> day of June 2022 at Jungu Village within Kilindi District in Tanga Region, the accused unlawfully killed one Safari Ama Mayo.

Facts of the case as adduced by the Republic in this case were as follows: on the day of the incident, the convicted person assaulted the deceased, targeting various parts of his body. This

violent act occurred after the convict discovered that the deceased was responsible for setting fire to his residence.

The deceased promptly reported the incident to the village authorities and subsequently reported the same to Kwediboma Police Station. His statement was recorded and tendered in the court as Exhibit P3. Following the police report, the deceased was provided with a PF3 form and sought medical treatment at Kwediboma Hospital where he was admitted for a day and was subsequently discharged.

On 14<sup>th</sup> July 2022, the deceased passed away at his residence. A postmortem examination, conducted by Dr. Jacob Vitalis Kisunge, was tendered in evidence as Exhibit P1, revealing that the cause of death was septic shock, resulting from septic wounds. Following this tragic event, the convict was apprehended. During police interrogation, he admitted to being responsible for assaulting the deceased, Safari Ama Mayo who tragically succumbed to death due to the injuries inflicted during the beatings. Subsequently, he was formally charged with the current offence which he also admitted here in court.

In submissions regarding sentencing, Mr. Waitama admitted that they have no previous criminal records of the convict. Still, he implored the court to pass a sentence in accordance with the law. Mr. Denis Malegesi advocate for the convict prayed for a lenient sentence on the following grounds:

- i. The convict has been in remand custody for over one year.
- ii. The convict cooperated with the authorities and readily confessed to the offence, saving resources.
- iii. The convict assisted the deceased after the incident and even contributed to his treatment costs.
- iv. The convict has a family of five (5) children, the last born being 9 months and the rest are schooling. His wife is disabled after incurring an accident in 2021.
- v. He is a first offender and has repented his offence. Also, the offence falls within the low level of seriousness of the offence which ranges from conditional discharge to four years imprisonment.

The offence of Manslaughter carries a maximum penalty of life imprisonment, as stipulated in section 198 of the Penal Code.

However, the Maximum sentence is always reserved for the worst cases. As submitted by the learned counsel, given the circumstances of the case, I do not consider this to be a case falling in that category of extreme manslaughter deserving a maximum penalty.

In determining the appropriate sentence for the convict, I have taken into careful consideration various factors including, the antecedents, mitigation, the facts presented by the prosecution and the exhibits tendered in the court record. Exhibit P2 provides the convict's account of the incident. According to his statement, on the night of the incident at around 02:00 a.m., he and his wife woke up to discover their house in flames. They successfully managed to extinguish the fire, only to encounter the deceased at the rear of their house. The deceased claimed responsibility for purposefully setting the house on fire, alleging that the convict was romantically involved with his wife, who was purportedly inside the convict's house at that moment.

In an attempt to verify these claims, the convict proposed going inside to check for his wife, but she was not found. Subsequently, the convict intended to take the deceased to the



authorities, but the deceased resisted to the point of physically assaulting the convict with a fist. It was at this juncture that the convict retreated inside, retrieved a stick, and struck the deceased twice. The deceased's loud cries prompted the intervention of neighbours, who separated them, leading to reporting the matter to the authorities.

While it is undeniable that the deceased succumbed to the consequences of infection on unhealed wounds, as documented in Exhibit P1. The deceased's actions, notably initiating the arson that led to the destruction of the convict's house, coupled with an apparent lack of remorse, set the stage for a highly charged confrontation. Subsequently, the deceased escalated the situation by physically assaulting the convict with punches. This was too much of a provocation to the convict.

According to the Sentencing Guideline by the Judiciary of Tanzania, in determining the level of seriousness of the offence whether High, Medium, or Low, the sentencing range for this kind of offence falls under the low-level category which ranges from zero to four years imprisonment.

Given the above considerations, I hereby sentence the convict  
**JOSHUA JACOBO MAAMI** to serve a term of three years  
imprisonment.

It is so ordered.

**DATED** at **TANGA** this 23<sup>rd</sup> day of November 2023.



  
H. P. NDESAMBURO

**JUDGE**