

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(MBEYA SUB – REGISTRY)

AT MBEYA

CRIMINAL SESSIONS CASE No. 67 OF 2022

REPUBLIC

VERSUS

- 1. JACKSON S/O GADAU @ SAUTI YA RADI**
- 2. SAID AYUBU S/O MLWILO @ KIMWITU**
- 3. JULIUS S/O MKONDA @ SAMWEL**
- 4. JAPHARI S/O ABDALAH MSIGWA @ KINDEZI**

JUDGMENT

21st & 27 May, 2024

POMO, J.

The four accused persons; JACKSON S/O GADAU @ SAUTI RADI, SAID AYUBU S/O MLWILO @ KIMWITU; JULIUS S/O MKONDA @ SAMWEL and JAPHARI S/O ABDALLAH MSIGWA @ KINDEZI are standing trial in this court, facing the information of murder under section 196 of the Penal Code [Cap 16 Revised Edition 2022]. The prosecution contends that on 3.3.2020, in Magea village within Mbarali District in Mbeya Region, did murder one Leketoo s/o Kisawani.

When the information was read over them, they pleaded not guilty. In pursuit to establish the case, the prosecution called upon 8 witnesses and tendered 6 exhibits to substantiate their allegations.

Ayubu Mahamoud Suleiman (PW1), testified that on 3.3.2020 at 7 a.m., he arrived at the rice mill and noticed a broken padlock. Upon opening the door, he observed blood on the floor. Proceeding to the rice grinding machine, he discovered the deceased, who was his security guard, wrapped in a sack. Immediately, reported the incident to the police. Upon police arrival at the scene, they examined the body and transported it to the hospital. PW1 described the deceased as having suffered injuries to his head and forehead, indicative of a beating. Additionally, PW1 revealed that 560 kilograms of rice belonging to Gasparina and 200 kilograms of rice belonging to Anna had been stolen, a total of 760 kilograms intended for sale. Subsequently, PW1 received information from the police regarding the arrest of the culprits.

James Kisawani Shomete (PW2), the brother of the deceased, Leketoo Kisawani, testified that on 3.3.2020, received a call from his uncle, Mr. Kipondo, inquiring about his brother's workplace. His uncle requested

him to return home, which he complied with. Upon arrival, they proceeded to the rice grinding machine owned by PW1. There, they found a gathering of people, including the police, and noticed bloodstains along with one of his late brother's shoes. He informed the court that the last time he saw his brother was on 2.3.2020 at noon. Upon the police uncovering the body from the sack, he identified it as his younger brother's body. He observed injuries on the deceased's forehead, right hand side, and at the back of the head. Subsequently, they transported the body to Rujewa hospital mortuary for examination by the doctor.

Dr. Shukuru Michael Nyenyembe (PW3), a medical doctor, testified that on 3.3.2020, while at work, the police brought a body in need of medical examination. The police informed him that the deceased was named Leketoo Kisawani. Accompanied by the police, PW3 proceeded to the mortuary to conduct the examination. Upon examination, he determined that the cause of death was head injuries sustained at the back of the head, forehead, and near the mouth. The deceased's clothing was found to be bloodstained. PW3 explained to the court that the primary cause of death was severe bleeding due to the sustained injuries, medically referred to as hypovolemic shock. During the examination at the mortuary, PW2, a relative

of the deceased, was present. Subsequently, PW3 filled a Report on Postmortem Examination, which he tendered in court as **exhibit PE1**.

Gasparina Aloiz Badanga (PW4), testified that on 2.3.2020, she processed rice at PW1's machine and obtained nine sacks weighing 100 kilograms each, totaling 900 kilograms. That evening, she sold 40 kilograms, leaving 860 kilograms remaining, which she entrusted to the security guard, Leketoo. On 3.3.2020 at 8:00 a.m., she received a phone call informing her of an incident at the machine. Upon arrival, she found a gathering of people, including the police. Upon entering the warehouse, she discovered that only three sacks of rice remained, with six missing—those missing sacks belonged to her. She noted blood on the floor and was informed of the security guard's death. The police took the body, and she was later summoned to the police station for interrogation.

H.1715 CPL Elias (PW5), a police officer, testified that on 3.4.2020 around 3 p.m., while stationed at Rujewa police station, received a call from the head of the police station, Janet Masangalo. She informed him of a reported case involving the theft of a generator, with the suspect identified as Japhary Kindezi, the 4th accused, located in the village of Magwalisi in

Rujewa ward, Mabarali district. He was tasked with apprehending the suspect. Together with another police officer, they arrived at the village around 4 p.m., guided by an informant who led them to where the 4th accused was found preparing cooking chips. They proceeded to arrest him, informing him of the charges related to the theft of a generator. Subsequently, they transported him to Rujewa police station and handed him over to the Officer in Charge (OCS) of Rujewa. It was discovered at the police station that the accused had a prior record related to a murder case.

G1009 D/C Athuman (PW6), testified that on the morning of 3.3.2020, PW1 visited the police station to report a crime at his rice grinding machine. Accompanied by Inspector Ndaki, they proceeded to Magea Street in Rujewa, the location of the crime. Upon arrival, they encountered a gathering outside the grinding machine house. Inside, they discovered blood on the floor and upon further inspection, found a sack (locally known as "suphate") within the mill containing the body of the deceased. The victim, identified as PW1's security guard, Leketoo Kisiwani, exhibited injuries consistent with blunt force trauma to the back of the head, forehead, and mouth area. James, a relative of the deceased, confirmed the victim's identity as his younger brother. Following this, PW6 drafted a sketch map of

the crime scene, which was signed by both PW1 and himself and tendered it in court as exhibit PE2.

PW6 elaborated that on 7.3.2020, around 2 p.m., they received *intel* that the third accused person was at the High Land Estate stadium, engrossed in a football match. Upon reaching the location, they spotted the suspect perched on a tree observing the game. PW6 ascended the tree, identified himself, and effected the arrest, apprising the suspect of the murder allegations. Subsequently, they transported the suspect to the Rujewa police station, arriving at approximately 4:30 p.m. Assigned with the task of interrogation, PW6 engaged the accused, who opted not to have his family members present. The interrogation spanned from 5:00 p.m. to 7:00 p.m., during which the accused admitted complicity in the crime alongside an accomplice. PW6 meticulously documented the confession, read it aloud to the accused, who affirmed it by affixing his thumbprint. The statement from the third accused was formally admitted into evidence as exhibit PE3.

PW6 continued his testimony, recounting an incident on 3.4.2022, around 5 p.m. while stationed at the Rujewa police station. He received instructions from ASP Ndaki, the head of investigations at Rujewa, to

document the statement of the fourth accused in connection with the murder case. At that time, the fourth accused was in police custody. PW6 escorted him from the lock-up to the interrogation room to commence the recording process. Prior to initiating the recording, PW6 reminded the accused of the gravity of the murder charge and offered the option of having a relative present during the statement's recording. The fourth accused indicated his readiness to proceed without a relative present. In the interrogation room, with only PW6 and the accused present as it was nearing closing time and staff had already left, recording began at 6:00 p.m. and concluded at 8:00 p.m. Following the recording, PW6 reviewed the statement with the accused, who affirmed it with a thumbprint, and both parties signed the document. PW6 informed the court that he had to read the statement aloud to the accused, as the latter expressed an inability to read or write. According to PW6's testimony, the fourth accused confessed to participating in the murder of the security guard and the subsequent theft of 750 kilograms of rice. Subsequently, the cautioned statement dated 3.4.2022, was admitted into evidence and marked as exhibit PE4.

E8308 D/SGT REUBEN (PW7), reports that on 5.3.2020, between 5 p.m. and 6 p.m., was instructed by the head of criminal investigation at

the Rujewa police station to record the statement of the 1st accused. He proceeded to the lockup and escorted the first accused to the interrogation room. After introducing himself and stating his rank, PW7 informed the accused of his rights, including the option to have a relative or friend present, which the accused declined. The 1st accused expressed readiness to provide a statement regarding the murder allegations, acknowledging that the statement would be submitted as evidence. Recording of the statement began at 6:06 p.m. and concluded at 8:00 p.m. After completing the interview, PW7 read over the statement with the accused, who confirmed its accuracy and signed it using his right thumb, with PW7 countersigning each page. Subsequently, the 1st accused requested assistance in writing his certification, as he could only write his name. PW7 assisted him, and the first accused signed the certificate. Following the recording of the statement, PW7 returned the 1st accused to the lockup. PW7 told the court that the 1st accused admitted to participating in the killing of the security guard, along with his co-accused. The cautioned statement of the 1st accused was admitted into evidence and marked as exhibit PE5.

G9928 D/CPL DIDAS (PW8), a police officer stationed at the Rujewa police station, testified that on 8.3.2020, between 10 a.m. and 11 a.m., he received a call from Inspector Ndaki, the head of criminal investigation, informing him of an accused person brought in regarding murder case No. RUJ/IR/201/2020. He was tasked with recording the cautioned statement of the accused, though he was not initially aware of the suspect's identity. Directed to the charging room (CRO), he inquired with the officers on duty about any suspects associated with the murder case. Upon confirmation, PW8 escorted the 2nd accused to the interview room, introducing himself, stating his rank, and outlining the purpose of the meeting, specifically the murder charge the accused faced. PW8 informed the accused of his rights, including the option to have a relative, friend, or lawyer present during statement giving, emphasizing that the statement would be recorded and admissible in court. The 2nd accused waived the right to have anyone present and agreed to provide a statement. Recording of the statement commenced at 11:00 a.m. and concluded at 11:47 a.m. Post-recording, PW8 reviewed the statement with the accused, who confirmed its accuracy and signed it using his thumbprint, with PW8 signing where required. Subsequently, PW8 returned the second accused to the lockup and

handed over the cautioned statement to the head of investigation. The cautioned statement of the second accused was admitted into evidence and marked as Exhibit PE6.

At the conclusion of the prosecution's case, the Court determined that the accused persons had a case to answer. Their rights to mount a defense were thoroughly explained to them, and they all chose to represent themselves without calling any witnesses.

Jackson Gadau(DW1), testified that on 3.3.2020, around 12:00 noon, he was at home in Isisi, sleeping. He adamantly denied the allegations that he was drinking local brew at Mjami club or had any involvement in a plot to steal rice from PW1's rice machine at that time. He insisted that he had no knowledge of a person named Jika Mbilinyi. Additionally, he stated that he only became acquainted with the fourth accused after being brought to the remand prison.

DW1 vehemently refuted any involvement in the killing of the deceased, Leketoo Kisawani, or any familiarity with Said Hamis Mjumange. He asserted that the claim he mentioned the fourth accused hitting the

deceased with an iron bar was false. Moreover, he stated that he had never visited PW4's rice machine from 3.3.2020, until the present date.

He submitted that he was arrested on 5.3.2020, in Isisi while drinking Gongo local brew. According to his account, unidentified individuals approached and arrested them, and they were subsequently taken to the Rujewa police station. At the Crime Registration Office (CRO), he was instructed to remove his belt before being taken to the lockup. DW1 described being taken to another room, handcuffed, and laid upside down, where he was subjected to physical assault on his leg palms. He believed he was beaten because he was found drinking Gongo brew. He identified the people who beat him as Athuman Majala and Reuben, both police officers.

After being subjected to physical assault, DW1 claimed that the police fabricated a murder case against him, falsely accusing him to cover up the initial charge of drinking Gongo brew. It was not until 5.3.2020, that he became aware of the murder case he was allegedly involved in. When taken into an interview room, he encountered people whom he did not identify. He asserted that he only became acquainted with the 2nd and 3rd accused after being implicated alongside them at the Rujewa police station.

Said Ayub Musa Mlwilo (DW2), affirmed that on 3.3.2020, around 12:00 noon, he was at home in Rujewa, sleeping. He refuted the allegations that he was with the 4th accused on his motorbike at that time or had any involvement in visiting PW1's rice machine for theft. He denied witnessing the fourth accused strike the security guard with an iron bar.

DW2 emphasized that he has no knowledge of individuals named Said Hamis or Batson Mloge. He proceeded to recount an incident on 13.3.2020, when he was at Mjami club in Rujewa, eating a meal known as kande. He stated that during this time, police officers on patrol arrived and arrested him, along with others, for drinking beer in the morning, as it was 11:45 a.m. Subsequently, he was taken to the Rujewa police station, where he was interrogated at the CRO regarding his personal details and family background before being placed in the lockup.

DW2 Mlwilo asserted that at the Crime Register office (CRO), they were informed that the offence they were facing was that of "uzembe na uzurulaji" (loitering and wandering). They were categorized as individuals spending their time idly in the streets without employment. While in the lockup, one by one, they were taken out, and he was unaware of the reasons for their removal. When it was his turn, he was escorted to the interview room. A

police officer named Majala informed him that he was implicated in the murder incident, as his accomplices were already apprehended. Despite his denial of involvement, they resorted to force in an attempt to coerce his confession. Upon refusal, he was returned to the lockup. After some time, another officer arrived to escort him from the lockup. Though he did not recall the officer's name, he was taken to the interview room, where papers were presented to him. In the room, he encountered police officers named Athuman Majala, Dida, and another whose name he did not know. When he resisted signing the papers, they subjected him to torture until he could no longer bear it, prompting him to sign. He emphasized that he was unaware of the contents of the papers he signed. The names Julius, Jackson, and Japhery mentioned in the cautioned statement were unfamiliar to him at the time. DW2 continued, stating that prior to his arrest, he had no knowledge of his co-accused. He only became acquainted with them on 16.3.2020, when they appeared in court and were charged with an offence before the Mbarali District Court.

DW2 further asserted that his involvement in this court case stemmed from personal grudges with Athuman Majala, a police officer. He recounted a conflict they had over water usage at the rice farms owned by the investor

known as Highland Estate. He vehemently denied the accuracy of Exhibit PE4, a statement claiming he struck the deceased, emphasizing his lack of knowledge regarding the incident and his recent acquaintance with the fourth accused only after becoming co-accused. Additionally, he refuted the claims made in Exhibit PE6 that he was involved in tying the deceased with ropes, stating once again that he was not aware of the incident.

Julius Mkonda Samwel (DW3), testified that on 3.3.2020, around midnight, he was at home on Ukinga Street in Rujewa, Mbarali, Mbeya region, sleeping. He refuted the accuracy of Exhibit PE3, which purportedly showed his presence at Starlight, stating that he neither engaged in bodaboda (motorcycle taxi) work nor owned a motorcycle for such purposes. He claimed that on 7.3.2020, he was arrested while watching football at Highland Estate Stadium with a motorcycle belonging to someone named Mkude, which was parked nearby. He emphasized that the motorbike mentioned in Exhibit PE3 was not presented in court.

DW3 disputed the claim that on the night of 3.3.2020, he was in the company of the co-accused with two motorbikes, as he had no prior acquaintance with them until they became co-accused in the present case.

He also denied witnessing the fourth accused and second accused striking the deceased with an iron bar.

DW3 recounted to the court the circumstances of his arrest. He stated that on the day of his arrest, police officers, including Majala and Reuben, approached him at the stadium. Majala grabbed him by his trouser from behind, addressing him as "Jose" and stating that he was being called but not responding. DW3 clarified that his name was not Jose, but Julius. Despite this correction, Majala insisted that names could change over time. When asked about his alleged wrongdoing, he was informed that he would be informed at the police station. Samwel refused to go to the station without knowing the offence he was accused of committing.

Subsequently, he was accused of speeding on a motorcycle. He was then taken to the Rujewa police station, where he encountered two individuals, one of whom was a police prosecutor while the other was unfamiliar to him.

The following morning, Majala again brought DW3 to the investigation room, urging him to listen attentively. DW3 said he was questioned about individuals named Japhary, Said Mjumange, and Sauti ya Radi, to which he responded negatively. Subsequently, he was subjected to further physical

assault, and a written paper was presented for his signature. DW3 requested the presence of the chairperson or a relative during this process, but his request was dismissed. Refusing to sign, he was forcibly thumb-signed the papers after enduring beatings.

DW3 asserted that he met the 1st and 2nd accused at the police station, while he only became acquainted with the 4th accused during his time at Ruanda Remand Prison, two years after his initial arrest. Additionally, he stated that the motorbike he possessed at the time of his arrest was confiscated by the police along with his mobile phone. He denied any knowledge of the motorbike used in the incident and affirmed that he had never engaged in bodaboda duties.

DW3 informed the court of his conflicts with the police officer Reuben, who is PW7, regarding a woman named Fatuma, a barmaid, with whom he had a romantic relationship. According to Samwel, he and Fatuma were in a relationship, but Reuben also had feelings for her. Their quarrels over Fatuma persisted for about two months. On one occasion, DW3 brought Fatuma to his home, where they were confronted by Reuben. Reuben warned DW3 against continuing the relationship with Fatuma, claiming she was his girlfriend. DW3 responded by stating that it was Fatuma's decision

whom she wanted to be with, and Fatuma denied having any romantic involvement with Reuben. DW3 emphasized that he did not commit the offence he is charged with and requested the court to acquit him.

Japhary Abdallah Msingwa (DW4), testified that on 3.3.2020, around 12:00 p.m., he was sleeping with his father in a hut at Magwaisi. He refuted the allegations of theft and murder at PW1's rice machine, asserting that they were untrue. DW4 informed the court that he had no prior acquaintance with the co-accused before their involvement in the court proceedings. He emphasized that he did not know Leketoo Kisiwani, the deceased. Additionally, he disputed the testimony of PW6, claiming that he did not implicate the first and second accused persons, as alleged.

DW4 stated that he was arrested by Elias (PW5) while he was weeding rice in a farm. When questioned about the reason for his arrest, Elias informed him that he was accused of stealing a generator belonging to a teacher named Loita. He was subsequently taken to the Rujewa police station, where he was informed of the theft accusation and placed in the lockup. He stated that no statement was recorded from him until the following morning when he was taken to the interview room.

In the interview room, DW4 recounted that PW5 informed him of the accusation of stealing a generator. Denying ownership of the cautioned statement presented to him, he claimed to have seen it for the first time at the police station when PW6 brought it. He detailed how PW6 instructed him to complete his conversation with PW5 before attending to him. Upon completion, PW6 asked him to sign the papers without explanation. When questioned, PW6 responded that, as a soldier, obedience was imperative. Refusing to sign without understanding the contents, DW4 alleged that PW6 initiated physical torture. Subsequently, PW7 intervened by handcuffing him, after which he was beaten with clubs on his hand joints and legs, with DW4 specifically implicating PW6 as the assailant.

After enduring such beatings, DW4 inquired about the content of the paper they wanted him to sign. Their response insinuated that he was ignorant of his actions, alleging that he had killed a security guard at PW1's rice machine. DW4 vehemently denied these accusations, stating that he did not commit any such act and only became acquainted with PW1 when he testified in court.

Furthermore, he refuted the claim that he struck the deceased with a club, asserting his innocence. He emphasized that he did not own a

motorbike, and no motorbike had been presented as evidence in court. Additionally, he stated that he had not seen any rice sacks allegedly stolen, which had been tendered as evidence. He pleaded with the court to acquit him, as he maintained his complete lack of involvement in the incident.

Having thoroughly examined all the evidence presented in this case, alongside the submissions made by both sides, a central issue emerging is whether the information of murder against the accused persons stand prove beyond a reasonable doubt?

I should begin by stressing the fundamental principle of law that the burden of proof in criminal trials lies squarely on the shoulders of the prosecution and it never shifts, the standard of which being that of proof beyond all reasonable doubts. See the case of **Mohamed Saidi Mtula v. Republic [1995] T.L.R. 3**. It is also pertinent to underscore that the accused's defence need only to raise a reasonable doubt into the eyes of the court and no more – See **Joseph John Makune v. The Republic [1986] T. L. R. 44** at page 49 and **Nathaniel Alphonse Mapunda and Benjamini Alphonse Mapunda V R, [2006] T.L.R 395**.

In order to secure a conviction for murder, the prosecution must establish three fundamental elements: **firstly**, the death of a human being

resulting from unnatural causes; **secondly**, that this death was the consequence of an unlawful act committed by the accused; and **finally**, that the accused harbored the intention to cause death or inflict serious bodily harm upon the victim while carrying out this unlawful act. Central to these proceedings is the concept of malice aforethought as provided under section 200(a)-(c) of the Penal Code, [Cap. 16 Revised Edition 2022]. The section reads thus: -

"S.200 – Malice aforethought shall be deemed to be established by evidence proving any one or more of the following circumstances: -

- (a) An intention to cause the death of or do grievous harm to any person, whether that person is the*
- (b) person actually killed or not;*
- (c) **Knowledge that the act or omission causing death will probably cause the death of or grievous harm to some person, whether that person is the person actually killed or not, although that knowledge is accompanied by indifference whether death or grievous bodily harm is caused or not, or by a wish that it may not be caused;***

In light of the principles delineated above, it remains uncontested within this case that Leketoo s/o Kisawani met his demise on the night of 3rd March, 2020. This irrefutable fact was corroborated by PW3, the doctor who performed the postmortem examination and submitted its findings as exhibit PE1 in court.

The chief evidence implicating the accused persons in the murder of the deceased primarily comprises the cautioned statements they furnished before the police. Nevertheless, it is imperative to acknowledge that these statements were repudiated and retracted during the court proceedings.

It is generally considered unsafe for a court to rely solely on a repudiated or retracted confession without corroborating evidence. Courts seek corroborative evidence in such cases to ensure the reliability of the confession. However, under the law, it is not necessarily illegal for a court to consider a retracted and/or repudiated statement even without corroboration. If the court, despite recognizing the importance of corroboration, is convinced of the truthfulness of the confession, it is within its discretion to act upon it, even in the absence of corroborative evidence. This understanding is derived from the case of **Tuwamoi v Uganda** (1967) EA 84 and subsequent legal precedents on the matter. In **Tuwamoi's** case,

the Court of Appeal for East Africa conducted a thorough examination of the legal principles concerning retracted and repudiated confessions in East Africa. In its findings, the court, at page 91, had this to state: -

*'We would summarise the position thus – a trial court should accept any confession which has been retracted or repudiated or both retracted and repudiated with caution, **and must before founding a conviction on such a confession be fully satisfied in all the circumstances of the case that the confession is true.** The same standard of proof is required in all cases **and usually a court will only act on the confession if corroborated in some material particular by independent evidence accepted by the court.** But corroboration is not necessary in law and the court may act on a confession alone if it is fully satisfied after consider and all the material points and surrounding circumstances that the confession cannot be but true.'*

To my understanding, this is still a legal stance in jurisdiction of this country with regard to retracted and/or repudiated or both retracted and repudiated confessions.

In the case at hand, it is evident that the key witnesses are predominantly police officers, particularly PW6, PW7, and PW8. These police officers took statements from the accused, which allegedly confirm their involvement in the murder of the deceased. Reading the statements, the 1st accused's cautioned statement (exhibit PE5); the 2nd accused's cautioned statement (exhibit PE6); the 3rd accused's cautioned statement (exhibit PE3) and lastly, the cautioned statement of the 4th accused (exhibit PE 4) they give a contradictory version of story on the incident. For instant, the 3rd accused in his statement stated, having killed the deceased, he took to his home three sacks of rice, while the 1st accused statement is that the rice they stole took it to one JIKA MBILINYI a rice businessman whom they were familiar with even before and the next day went to claim from him their money for the rice and were told by the said JIKA MBILINYI are to wait until he sells that rice. This accused also said, they were only three who were involved in the incident mentioning them as JAFFARI KINDEZI, SAID KIMWITU and SAID HAMIS MJUMANGE (not a part to this case). Not only that, the 2nd accused's version in his statement is that, after killing the deceased and stealing the rice, they called a bodaboda rides to carry the rice, SAIDI HAMIS and BATSUN MLOGE who came and took that rice to a

business woman called MAMA KURWA. As to the 4th Accused, his version is that they called a BODABODA rider to carry for them the rice, one SAIDI MGONGO who came and upon seeing the scene had blood shed as well the accused persons' clothes full of blood, chose to go away.

That variance in their statements create doubts on their reliability hence corroboration was inevitable. Those mentioned in the cautioned statements ought to be called to testify on the incident. According to those statements, they are persons familiar to the accused as well to rujewa vicinity where the crime was committed. Such failure in bringing these keys witnesses to the commission of the incident, in my considered view, has dented the prosecution case which relies on the cautioned statements in implicating the accused.

As elucidated earlier, and taking into account the retraction and repudiation of the cautioned statements by the accused, it's established that evidence which has been retracted or repudiated cannot be solely relied upon to secure a conviction unless substantiated by independent corroborative evidence. This principle finds support in legal precedent such as the case of **Muhidini Mohamed Lila @ Emolo and 3 Others vs.**

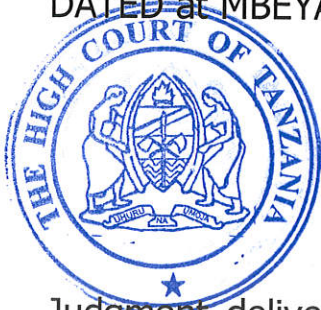
Republic, Criminal Appeal No. 443 of 2015, CAT (unreported), and
Mkubwa Said Omary vs S.M.Z. [1998] TLR 365.

Following the above, I find unproved the information of murder laid against all the accused persons and hold that they are not guilty of it. consequently, I hereby acquit them of the offence and order for their immediate released unless are held for other lawful cause.

It is so ordered.

Right of Appeal explained

DATED at MBEYA this 30th day of May, 2024



^{167.}
MUSA K. POMO
JUDGE
30/05/2024

Judgment delivered in presence of Ms. Imelda Aluko, learned state attorney for the republic and all the accused represented by Mr. Seiph Mussa Wembe, advocate holding brief for Mr. Isaya Mwanri, learned defence counsel

^{167.}
MUSA K. POMO
JUDGE
30/05/2024