

IN THE HIGH COURT OF TANZANIA
(SUMBAWANGA DISTRICT REGISTRY)
AT SUMBAWANGA

CRIMINAL SESSIONS CASE NO. 29 OF 2022

(Original P.I No. 10/2021 before the District Court of Sumbawanga at Sumbawanga)

REPUBLIC

VERSUS

JUMA GOMWA.....

.....**ACCUSED**

JUDGMENT

14th June, 2024

MRISHA, J

Before this court the accused person **Juma Gomwa** was initially arraigned for the information of Murder contrary to section 197 and 197 of the Penal Code, Cap 16 R.E. 2019 which is now R.E. 2022. However, the information in respect of that homicide offence was later substituted to that on Manslaughter contrary to section 195 and 198 of the Penal Code following the prayer of the said accused through his advocate who was Mr. Peter Kamyalile which was not objected by Ms. Godliver Shio, learned State Attorney representing the respondent Republic.

Subsequently, the abovenamed accused person pleaded guilty to the lesser offence of manslaughter and the court enter a plea of guilty to that charged offence. Thereafter, the facts of the case were read over and explained to the accused person to the effect that:

The accused person was charged with the Manslaughter after killing Filbert Kiwele, the incident happened on 22/05/2021 at Katongolo village within Nkasi District in Rukwa Region.

That, the accused person is a step son of the deceased, they were residing at the same house at Katongolo village. That, on 22/05/2021 at evening, the accused with deceased and his wife, were at a local beer shop of James Joseph, together drinking a local beer commonly known as "komoni". After being drunk, the accused and his mother and deceased went home, after arriving at home, the deceased and his wife started fighting. Then, the deceased wife lost her strength while fighting with the deceased. That, led the accused to intervene and help his mother not to be continuously beaten.

On that incident the accused person took a hoe and cut deceased one on the head and deceased fall sown and severally bleed and died the same day.

That, the accused person escaped/ run away to unknown place, then the deceased wife reported the incident to the village chairman and who also

reported the incident to the police and other remained and secured the deceased body until the next day.

On 23/05/2021 the investigation of the offence was conducted by the police officer with Force Number F.4940 D/C Michael who also draw a sketch map of the crime scene assisted by Petro Songareli, on the same day the deceased body was taken to Kirando Health Center for examination. The post mortem examination was conducted by Dr. Gabriel Majani and it revealed that the cause of death is severe haemorrhage.

On the same date 23/05/2021 with the help of villagers and police officers, the accused person was arrested and taken to Namanyele Police Station where he was interrogated and confessed that he killed the deceased person, but without malice of forethought i.e manslaughter.

Upon the said facts being read over and explained to him, the accused was given an opportunity to comment on the correctness or otherwise of the said facts whereupon he confirmed to the court that those facts are correct and he admits them. Consequently, the court found him guilty of the offence of manslaughter and accordingly convicted him on his own plea of guilty.

Thereafter, both the counsel for the prosecution Republic and the defence side made their submissions regarding the aggravating and mitigating factors all of which I have considered. I now would like to pass the appropriate sentence to the said accused persons in the following manner:

The accused person **Juma Gomwa** who has recently been convicted on his own plea of guilty to the charged offence of Manslaughter contrary to section 195 and 198 of the Penal Code, Cap 16, R.E. 2019 [Now R.E. 2022), has through his advocate one Mr. Peter Kamyalile, urged the court to award him a lenient sentence arguing that apart from the fact that he has pleaded guilty to the abovenamed lesser offence, thus serving the time of the court and parties, he has been in prison remand for hardly three years (3) or so and that has made him be able to repent on his guiltiness.

It is also his submission that he is still young and did not intend to kill his step father, but was defending his mother from been oppressed by the deceased, his late step fathertt. He has also submitted that he is a first offender which makes him entitled to a lenient sentence. To the prosecution Republic, it is their humble submission that although they have no previous criminal records about the accused person, the said accused person need be given a stiff sentence as per the law.

There is no doubt that the abovenamed accused person is responsible for the killing of the deceased person and for that basis, there is no way he can escape the consequence of being incarcerated due to his guiltiness, as indicated above.

However, having considered both the aggravating and mitigating factors as summarized above, I am of the settled view that being a first offender whose criminal conduct was done under circumstances in which it could not be done had the deceased person not contributed to commission of such criminal act; the said accused person is entitled to a lenient sentence.

As I am about to impose the appropriate sentence, I must also say that I have taken into account the fact that the accused person has been relinquishing in prison remand for hardly three (3) years or so which to my opinion is almost equal to a prison sentence and need be calculated in assessing his actual sentence.

With all the foregoing reasons, I hereby sentence the accused person Juma Goma to serve a prison sentence of one (1) year in jail hoping that after completion of such sentence he will be a good ambassador in the society to sensitize members of his society about the need to abide to the laws of the land and the consequences of taking the law into hands.

It is so ordered.


A.A. MRISHA
JUDGE
14.06.2024

DATED at SUMBAWANGA this 14th day of June, 2024.




A.A. MRISHA
JUDGE
14.06.2024

ORIGINAL