

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF  
TANZANIA  
[IN THE DISTRICT SUB-REGISTRY OF SUMBAWANGA]  
AT SUMBAWANGA  
CRIMINAL SESSION NO. 9633 OF 2024**

REPUBLIC  
VERSUS  
SAMWELI s/o WILLIAM @MJENGWA

14<sup>th</sup> of JUNE 2024

**JUDGMENT**

**NANGELA, J.:**

This is a judgement in respect of an offence of MANSLAUGHTER. The accused person one Samweli William Mjengwa is 58 years old. He is a resident of Kapunga Village within Tanganyika District in Katavi Region. He stands charged with unlawful killing of on MADUHU IDALA SHEREMBO. On the 22<sup>nd</sup> day of August 2023, at around night hours, the accused person was smoking cigarette outside his home place at the said Kagunga Village within Tanganyika District, Katavi Region. It was after dinner on the fateful day and his family was inside the house.

While outside his house smoking cigarette, the deceased appeared with his bicycle coming by the road which passes in front of the accused's house. The deceased

appeared drunk, at that moment. The deceased approached the deceased and in a loud voice started to abuse and hurl abusive words in Kisukuma language which in Kiswahili would mean: "*uchi wa mama yako*" na "*mbolo yangu*".

The accused person tried to stop the deceased from such insults without success. Then he pushed the deceased for him to leave. The deceased fell whereof his head hit on the ground. The deceased could not stand up alone due to his drunkenness situation. The accused being seized with fear of the situation, took the deceased and his bicycle away from his premise to a pit valley. The deceased encountered his death soon later at the very pit valley area.

On the 25<sup>th</sup> day of August 2023, the deceased's body was found in a pit valley by the villagers. The incident was reported at Kasekese Police Post by one MICHEAL LEONARD FUNGAMALI. Police Officers, led by A/INSP.KADUMA, in the company of a Medical Doctor (MD) MPELI PHESTON LUPOGO visited the crime scene. One G.5488 D/CPL HAMAD drew up a sketch map of the crime scene.

The deceased was examined by Dr. MPELI PHESTON LUPOGO. He revealed that the cause of the deceased's death

was due to "**Severe Traumatic Brain Injury and Hypovolemic Shock**". On the 09<sup>th</sup> of November 2023, the accused person surrendered himself to the Police at Kasekese Police Post after being summoned by the Police. He was arrested thereat and taken to Tanganyika Police Station. He was as well interrogated by one, G.8430 D/CPL EMMANUEL. The accused person confessed to have caused the death of the deceased.

On the 21<sup>st</sup> of November 2023 the accused person was taken to a Justice of the Peace, one Sylvester s/o Felix Makombe for the recording of an extra-judicial statement. The accused person confessed to have committed the offence. He was latter arraigned in court facing the charges of MANSLAUGHTER c/s 195(1) and 197 of the Penal Code, Cap. 16 R.E 2022 as present.

When the information was read over and explained to the accused person, he unequivocally admitted to the charges. He also admitted to all facts as read over and explained to him. The prosecution tendered a sketch map, a postmortem report, the caution statement and the extra-judicial statement of the accused which were all admitted and marked Exh.P1,

Exh.P-2, Exh.P-3 and Exh.P-4 respectively. The same were duly read over loudly in Court and explained to the accused person in Kiswahili as required by law.

Based on the facts which the accused accepted as correct and considering the documentary evidence which were read over and explained to the accused person in Kiswahili, the language he is conversant with, and considering the fact that information for MANSLAUGHTER contrary to Section 195 and 198 of the Penal Code, Cap.16 R.E 2022, having been read over and explained to the ACCUSED PERSON in Kiswahili the accused has unequivocally pleaded guilty to the charge of MANSLAUGHTER, the law is very clear.

Where an accused person pleads guilty to the offence charged and his plea is unequivocal, the court will proceed and convict such an accused person. In view of the above, this court does hereby find the accused guilty and convict him of MANSLAUGHTER contrary to section 195(1) and 198 of Penal Code, Cap.16 R.E 2022.

### **SENTENCE HEARING**

**Ms. Florida:** My Lord, there are no previous records of the accused. However, we pray that a stiff punishment be

imposed on the accused person because death has no alternative. We also pray for such a sentence to be a lesson to others. That is all I can say.

**SGD: DJN.  
JUDGE  
14/06/2024**

**MITIGATION OF THE SENTENCE:**

**Mr. Nkumpilo (Advocate):**

My Lord, much as it is correct to state that the accused caused the death of the deceased, we pray that this court consider that the accused is now 58 years and is the first offender. He was thus a good citizen. He has been in remand for seven months and four days. My Lord, he has learnt his lessons, and he cannot repeat the same offence or any offence henceforth.

My lord the accused is a family man and has a wife and seven children, the two being twins who are aged 5 years. My Lord, the accused has been quite remorseful, and he regrets for what he did. He has not failed to cooperate with the Police, and he even went to Police without absconding when he was summoned by the Police. He even confessed both to the police

and to the Justice of the Peace and to this Court too. By so doing, he has even spared the time of this court and expense which could have been used to call for witnesses.

My Lord it is also worth noting that the deceased was the one who insulted the accused before the accused's very own family. He only pushed the accused to force him go away and unfortunately the fall was a bad one as it went with the deceased's life. My Lord, the accused has never had a quarrel with the deceased. We therefore pray that this court be lenient in sentencing the accused as this is the only offence he ever committed as the record would show. That is all.

**SGD: DJN.  
JUDGE  
14/06/2024**

**SENTENCE**

I have heard the mitigating factors and the fact that the accused person has no prior criminal history. He is 58 years and in all those years this is his first ever offence. He is thus, a first-time offender. I do agree with the mitigations made before this court on his behalf. This should have been counted as an unfortunate event that befell his household.

I do agree that the accused was remorseful so far as he reported himself to the Police and all along confessed to have occasioned the death of the deceased MADUHU IDALA SHEREMBO. It is also clear that the deceased was the troublemaker for not been able to control his drinking habit. He invited his own unfortunate and uncalled for demise.

Those of the old says in their wisdom like King Solomon on Proverbs 10:14:

“Watu wenye hekima huweka akiba ya maarifa; **Bali kinywa cha mpumbavu ni uangamivu ulio karibu.**” “Wise men lay-up knowledge; but the mouth of the foolish is near destruction.”

It is unfortunate, therefore, that the deceased was lured by his own abusive mouth to invite his own demise so quickly. But having heard the prosecution attorney and the defence counsels, and considering the circumstances of this case and how the offence took place, I still find that the accused acted irresponsibly since he could have been wise and leave the troublemaker alone by shutting the doors behind him.

In my view, however, the seven months stay in remand must have been sufficient to instill the missing link of wisdom in the accused's heart, should he face a similar scenario in his remaining lifetime.

Considering what I stated hereabove, the convict is hereby granted an "**Absolute Discharge**" to allow him to look after his wife and the raise their seven children, unless he is arraigned for an offence other than what he was charged with and convicted of by this court.

**It is so Ordered.**

DATED AT SUMBAWANGA ON THIS  
14<sup>TH</sup> DAY OF JUNE 2024



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**DEO JOHN NANGELA**  
JUDGE

Sentence pronounced in open court in the presence of the Ms. Florida Wenceslaus, and Gregory Muhangwa, Learned State Attorneys appearing for the Republic and Mr. Sweetbert Nkumpilo, Advocate, learned the Defence counsel for the accused person who was also present in court.



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**DEO JOHN NANGELA**  
JUDGE  
**14<sup>TH</sup> OF JUNE 2024**

