

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF
TANZANIA
SUMBAWANGA SUB-REGISTRY
AT SUMBAWANGA
CRIMINAL SESSION CASE NO.9635 OF 2024**

THE REPUBLIC
VERSUS
JAPHET FLORENCE

14th of JUNE 2024

JUDGMENT

NANGELA, J.:

The accused person is Japhet s/o Florence aged 24 years old Mambwe, Male peasant, Christian and resident at Namanyere village within Mlele District in Katavi Region. The accused person stand charged with the offence of Manslaughter Contrary to Section 195 (1) and 198 of the penal Code [CAP 16 R.E 2022]. The deceased is HELENA d/o Charles before her death she was married to the accused, and they were living together at Namanyere village within Mlele District in Katavi Region.

The incident took place on 13th day of January 2024 at Namanyere village within Mlele District in Katavi Region. Prior to the incident the accused and the deceased had marital problems as they were having a lot of disagreement. On the day of the incident the deceased and the accused were fighting as the

deceased wanted to go out to do some part time jobs, but the accused did not want the deceased to do so.

While the deceased and the accused were arguing about the matter, the accused attacked the deceased by beating her in various parts of her body including her neck, chest and head using fists. The deceased fell and became unconscious. When the accused tried to wake the deceased up, he found out that the deceased has died. The accused decided to turn himself in at Majimoto Police Station where he informed the police that he had a fight with the deceased which caused her death after he kicked her in the neck, chest and head.

Police officers went to the crime scene and mounted their investigation. A postmortem examination of the deceased body was conducted by Festo s/o Benard who revealed that the deceased death was caused by acute heart failure due to traumatic or neurogenic shock. On the same material day sketch map of the crime scene was drawn by INSP Mkingira. The accused person was interrogated by H. 9729 DC Kassim by way of caution statement and in his statement, he owns up to committing the offence.

On 26th day of January 2024 the accused person was taken to the Justice of the Peace, one Proscovia d/o Nihongataile, whereby he confessed to the killing of the deceased person due to their marital problems.

On the 14th of June 2024, the case was called on for a preliminary hearing. During plea taking, the accused person unequivocally admitted to the information for manslaughter. When the facts were read over and explained to the accused person, he also admitted to all facts as were read and explained to him. In court, a Sketch Map, a Postmortem Report and two statements of the accused person (Cautioned Statement and Extrajudicial Statement) were tendered and admitted into evidence as Exh.P-1, Exh.P-2 and Exh.P-3, respectively. The same were read over and explained to the accused person.

The principle remains always clear. Where an accused person unequivocally pleads guilty to the charges facing, the court should right away proceed to convict and sentence him accordingly. Based on the facts and evidence tendered by the prosecution in support of the offence of MANSLAUGHTER for which the Accused stands charged, and taking into account the accused person's own plea of guilty to the information (charge)

which was read over and explained to him in Kiswahili, the language he is conversant with, THIS COURT DOES HEREBY find the accused JAPHET s/o FLORENCE guilty and hereby convicts him of the offence of MANSLAUGHTER c/s 195 (1) of the Penal Code Cap. 16. R.E 2022.

Sgd
DJN/Judge
14/6/2024

SENTENCING HEARING

Ms. Florida: My Lord, on our side we do not have previous record of the accused person. However, I pray that he be given a sentence that is commensurate with the offence he committed. That is all.

Sgd
DJN/Judge
14/6/2024

MITIGATION

Ms. Sekela: My lord I pray that the accused be given a lenient sentence since he is a first Offender. The incident which led to the death of the deceased was because of a quarreling which ensued between the deceased and the accused, the two being wife and husband, hence a family brawl. My lord no weapon

was used by the accused. He deeply regrets as he even went himself to report to the Police and has been quite cooperative in divulging the truth including in his own cautioned statements, (Exh.P-3). Even during committal proceedings, he was ready to plead guilty to a lesser offence as he had no intention of killing the deceased, his dear wife. My lord he has even pleaded to the lesser offence which he was convicted of by this court and therefore he has not wanted to waste the time of this court. My lord he has four kids who needs to be cared by him. He has been in jail for five months and a day now and has indeed learnt his lessons and that is why he prayed to plead to a lesser offence.

That is all.

Sgd
DJN/Judge
14/6/2024

SENTENCE

I have heard the submission made by the learned State Attorney to the effect that the accused is a first offender. I have also taken into consideration the mitigating factors narrated to the court by the learned counsel for the accused person. The offence of Manslaughter attracts a hefty punishment of up to life imprisonment depending on the nature of the aggravating factors involved. The Sentencing Guidelines, 2023, does rank this offence on three levels, High, Medium and Lower level and, each level attracts a certain number of years from zero to life sentence.

As stated in the facts, the deceased was a wife to the accused and the two had four kids to raise. The death occurred suddenly amid a fight for which the accused has acknowledge responsibility. The society we have currently has fallen prey to rampant domestic violence, and violence against women, a fact which has had the effect of creating trauma and hard realities to the children who find themselves being raised by stepmothers or by single parents.

Wife beating should be considered an "anathema" since, in marriage, both the wife and the husband are, but one body.

The wisdom of our ancient father of mankind – Adam needs to permeate the hearts and minds of not just men like the convicted accused herein, but all other men out there. That wisdom is stated in the Book of Genesis 2: 23-24 and it reads:

“23. Adamu akasema, Sasa huyu ni mfupa katika mifupa yangu, na nyama katika nyama yangu, basi ataitwa mwanamke, kwa maana ametwaliwa katika mwanamume. 24.Kwa hiyo mwanamume atamwacha baba yake na mama yake naye ataambatana na mkewe, nao **watakuwa mwili mmoja.**”

Based on the above wisdom given to our forefather Adam by God Almighty, a further expounding of it was given by the Apostle Paul in his Epistle to the Ephesians saying as follows, at Chapter 5:29-31 and I quote:

“²⁹Hakuna mtu **anayeuchukia mwili wake mwenyewe,** bali huulisha na kuutunza vizuri, kama Kristo anavyolitunza kanisa

lake.³⁰ Sisi tu viungo vya mwili wake.³¹ "Kwa sababu hii, mwanaume atamwacha baba yake na mama yake, naye ataungana na mkewe, na hawa **wawili wata kuwa mwili mmoja.**"

The above is a clear guidance to all mankind, whether a believer or a non-believer since it is a moral principle of a real-life application. Failure to abide to such a principle in life is a sure invitation for troubles and pains we all see around today in the family settings.

Since the death of the deceased **Helena d/o Charles** was a result of what may be termed as domestic violence, and given that the society all around is fighting against this growing tendency that erodes its moral fabrics, and, even if the offence falls on the low levels of an offence of manslaughter, the accused cannot just walk home to marry another person without first getting sufficient rehabilitation in a prison setting for at least some good time.

Based on the mitigating factors narrated and considering the nature of the offence and the circumstances under which it

took place, I hereby sentence the accused person to a one 18 months imprisonment so as others may be restrained from mistreating their wives in the manner the accused did, thereby causing death to her and suffering and trainman to the innocent children who will love throughout their lives without their mother's love and care.

The accused is thus sentenced to 18 months imprisonment.

It is so ordered.



A handwritten signature in blue ink, appearing to read 'Nangela'.

DEO JOHN NANGELA

JUDGE

14TH OF JUNE 2024

Right to Appeal Against Sentence Explained.

Sentence pronounced in open court in the presence of the Ms. Florida Wenceslaus and Mr. Gregory Muhangwa, Learned State Attorneys appearing for the Republic and Mr. Sekela Amullike, learned the Defence counsel for the accused persons who are also present in court.

A handwritten signature in blue ink, appearing to read 'Nangela'.

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DEO JOHN NANGELA
JUDGE
14TH OF JUNE 2024