

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(TANGA SUB REGISTRY)

AT TANGA

CRIMINAL SESSIONS CASE NO. 36 OF 2023

REPUBLIC

VERSUS

JAMALI RAMADHANI SALEHE

SENTENCE

20/02/2024

NDESAMBURO, J.:

Jamali Ramadhani Salehe has been convicted of Manslaughter contrary to sections 195 and 198 of the Penal Code, Cap 16 R.E 2022, after entering a plea of guilty. According to the prosecution, the incident occurred on the 7th of July 2022, during night hours, at a local bar owned by Samwel Silonga in Misalai Village, Muheza District, Tanga Region. The charge alleges that the accused unlawfully caused the death of Hosea Boniface Maboko.

Facts of the case as adduced by the Republic, in this case, were as follows: On the day of the incident, the accused was at the local bar drinking alcohol, later joined by Salum Rajab Tupa and the deceased. They gathered outside the local bar with Samwel Silonga provided services as the owner of the said local bar. The deceased arrived and connected his mobile phone to a Bluetooth speaker for music. Later on, Samwel Silonga and Salum Rajab Tupa went inside the bar and joined the accused person. An altercation arose between Jamali Ramadhani Salehe and the deceased, leading to a physical confrontation with the accused/convict. Attempts by Silonga and Tupa to intervene were unsuccessful, as the deceased persisted in wanting to engage in a physical altercation with Jamali Ramadhan Salehe. The altercation then split outside and this led to the accused/convict wielding a piece of wood and striking the deceased. There after, Silonga pursuing Tupa and the deceased away from his premises.

Following the altercation, the deceased was discovered in distress lying near Samwel Silonga's place by compassionate samaritans, who promptly transported him to Bulwa Hospital for urgent medical attention. Despite the medical attention, the deceased succumbed to his injuries the following morning. The incident was promptly reported to Muheza

Police Station, where Detective Corporal Dauson took charge of the investigation.

Following the incident, a postmortem examination was conducted by Dr. Kassim Hassan Enzi from Teule Hospital in Muheza. The resulting Post post-mortem examination Report, submitted as Exhibit P1, indicated that the cause of death was attributed to cardiogenic shock and hemorrhagic shock.

After an extensive police investigation, Jamali Ramadhani Salehe was apprehended and formally charged with murder, a charge that was later substituted with the present offence. Subsequently, during court proceedings, he admitted to the charges brought against him.

During the sentencing submissions, Ms. Thomas, the learned State Attorney, acknowledged that there were no prior criminal records for the convict. However, she urged the court to impose a sentence in line with legal provisions. On the other hand, Ms. Akaro, the learned counsel for the convict, pleaded for a lenient sentence based on several grounds:

- i. The convict has been in remand custody for over a year and a half.

- ii. The convict readily admitted to the offence, thereby serving resources.
- iii. The convict is responsible for supporting a family of two children and a wife.
- iv. As a first-time offender, he has expressed remorse for his actions.
- v. That the death occurred while the two were in alcoholic state.

Having duly considered the aforementioned factors and the facts leading to this offence, this court acknowledges that Manslaughter carries a maximum penalty of life imprisonment, as provided in section 198 of the Penal Code. However, it is crucial to note that the maximum sentence is typically reserved for the worst cases. In light of the submissions made by learned counsel and the circumstances surrounding this case, it is evident that this instance of manslaughter does not fall within the category warranting such an extreme 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 submitted into the court. It remains undisputed that a physical

altercation ensued between the convict and the deceased, transpiring at the local bar where both parties were known to have been consuming alcohol. Moreover, even after Jamali Ramadhan Salehe and the deceased were separated from the fight, the deceased persisted, prompting Jamali Ramadhani Salehe to pick up a piece of wood and continue assaulting him. Moreover, the piece of wood used to strike the deceased appeared to have been hastily grabbed from the immediate surroundings, suggesting that it was not premeditated or arranged for use as a weapon.

Given the above considerations, I hereby sentence the convict **JAMALI RAMADHANI SALEHE** to serve a term of **four years** imprisonment.

It is so ordered.

DATED at **TANGA** this 20th day of February 2024.




H. P. NDESAMBURO

JUDGE