

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**IN THE SUB REGISTRY OF MANYARA**

**AT BABATI**

**CRIMINAL SESSION CASE NO. 22 OF 2023**

**REPUBLIC**

**VERSUS**

**NIIMA KWASLEMA..... ACCUSED**

**JUDGMENT**

15<sup>th</sup> December & 8<sup>th</sup> April 2024,

**G.N. BARTHY, J.:**

In this case, the accused person, Niima Kwaslema, stands charged with two counts of Murder, as stipulated in section(s) 196 & 197 of the Penal Code (Cap 16 R.E 2022). It is alleged that on the 5<sup>th</sup> day of December, 2019, at Gabadaw village, within Babati District in Manyara Region, the accused person murdered one Baha Kwaslema and one Baatael Bayi @ Baatam @ Joel Bay, respectively. The two counts are to be dealt with in a relative manner.

Mr. Raphael Rwezahula, assisting Ms. Grace Christopher, State Attorneys, appeared for the Republic, while Mr. Joseph Masanja, a learned advocate, appeared for the accused.

To establish their case, the prosecution called upon seven witnesses, namely: Dr. Astery Alexander Dangat (Pw1), Hafsa Hatibu Anzuruni (Pw2), E.8080 D/Sgt Jimmy (Pw3), Kwaslema Warey (Pw4), Theresia Martini (Pw5), Faustine Kwaslema Waree (Pw6), and Joseph John Kwaslema (PW7). Four exhibits were also presented, including two Reports on Post-Mortem examination of Baha Kwaslema and Baatael Bayi, the Extrajudicial statement of the accused person, and the Sketch map plan of the scene of the crime, which were admitted as exhibit(s) P1, P2, P3, and P4, respectively.

Regarding the prosecution evidence, PW5, the wife of Baatael Bayi, testified that they lived together with the father of the deceased (PW4). On the fateful day, the accused informed her that he was going to pick up his wife at Mandegem. The accused left with Baha and Baatael in a car owned by PW4.

Around 01:00hrs, she heard the car, and the accused knocked on the door. She managed to identify him in the solar light, accompanied by someone unknown. They went out to receive the bride. However, on the way, she hesitated when reaching the car, but the accused urged her to continue.

The accused asked PW5 for her phone, and despite trying to contact Baha to no avail, then she agreed to surrender it. The accused then revealed

to her that he had assaulted and battered Baha and Baatael, leaving her as the remaining target. They assaulted her, causing her to lose consciousness. Upon regaining it, she found herself being assaulted further by the accused and his accomplice. After being thrown off, she managed to free herself, untie the ropes, and return home around 04:00hrs.

Upon arriving home, she found the accused and his accomplice talking with PW4, asking for his phone and claiming they are preparing to slaughter a sheep for the bride. PW5 informed PW4 of the situation, who then raised an alarm. Despite their efforts, help didn't arrive immediately. It was only later, around 06:00hrs and 07:00hrs, that people began to gather.

Another witness E. 8080 D/SGT Jimmy, an investigator from the Tanzania Police Force, testified that on the 5<sup>th</sup> day of December 2019, at 05:00hrs, he was informed by the OC-CID, Richard Mwaisemba, about the incident. Together, they arrived at the scene of the crime at 06:15hrs, at the house of PW4, where a crowd had gathered. The Hamlet chairperson, Fabian Sanka, showed them a motor vehicle with registration number T446 DJN, a Toyota Noah with a silver color. Inside the vehicle lay a dead body.

The OC-CID opened the vehicle, revealing a body lying on the passenger seat, its head facing towards the door, which was cut, with a pool of blood on the floor. The body was identified by Faustin Kwaslema, a sibling

of the deceased, as that of Baha Kwaslema. They were led to another body, about 150 paces from PW4's house, hidden in the bushes of a cow shed, with its legs hanging outside. They pulled him out; his neck was cut, he had lost a lot of blood, and he was dead. A sketch map plan was drawn, admitted as exhibit P4.

They interrogated witnesses, including PW4 and PW5, and sent the bodies to Dareda Mission Hospital. In the afternoon of the 9<sup>th</sup> day of December 2019, in the presence of PW3, Daniel Athanas, and Joseph John (PW7), Doctor Astery Alexander Dangat (PW1) examined the body of the first deceased. He observed a large wound on the front side of the neck, with clotted blood, indicating death approximately 48 hours prior. PW1 concluded that severe bleeding (hemorrhage) from a sharp object had caused heart failure. He prepared a post mortem form, admitted as exhibit P.1

PW1 also examined the body of the second deceased. In his observation, the body exhibited a large wound on the front side of the neck with clotted blood. The wound involved the esophagus, vessels, and muscles in the neck. PW1 concluded that severe bleeding (hemorrhage) led to heart failure, causing death. The respective post mortem form was admitted without objection as exhibit P.2.

On the 20<sup>th</sup> day of December 2022, PW3 received information from OC-CID Songalaeli Jwagu that Niima Kwaslema (the accused), was sighted at Mto wa Mbu. PW3 was ordered to report at Mto wa Mbu in Karatu District, Arusha, to the in-charge of Mto wa Mbu police station. Upon arrival, PW3 located the accused at a bar and arrested him at 02:00hrs. They then transported the accused to Mto wa Mbu police station and departed for Babati at 03:00hrs.

While enroute, at Manyara National Park, near the JKF area, and with the vehicle in motion, the accused, who was seated in the back of the police truck, jumped off. PW3 raised an alarm, and the vehicle halted. After a search, the accused, handcuffed, was found hiding inside a valley at around 11:00hrs, sustaining injuries to his legs and ribs.

They arrived at Babati police station at 13:00hrs. This account was confirmed by Faustin Kwaslema Waree, PW6, a sibling to Baha Kwaslema, who also witnessed the scene of the crime on the 5<sup>th</sup> day of December 2019, and identified the two deceased. Additionally, it was affirmed that Celina is her sister and that the accused was involved in a dispute over PW4's properties.

At the police station, PW3 recorded the cautioned statement of the accused, wherein he confessed to murdering the two deceased persons in

the company of Qaray Kwaslema, Athanas Kwaslema, and one Jacob. However, Mr. Massanja objected to its admission, citing contravention of section 27 of the Evidence Act, Cap 6 R.E 2019, due to lack of voluntariness.

The court concurred, ruling out the admission of the cautioned statement, as the investigator, being well-acquainted with the case facts as the arresting officer, recording the cautioned statement raised doubts about its voluntariness and fairness.

On the 27<sup>th</sup> day of December 2022, PW3 took the accused to the justice of the peace, Hafsa Hatibu Anzuruni, testifying as PW2; who informed the accused of his rights to a voluntary confession. Then the accused willingly provided his statement without coercion, declined the presence of a relative or advocate, and acknowledged the statement's potential use against him in court. He confessed to murdering his relative, Baha Kwaslema. This confessional statement/extrajudicial statement was admitted as exhibit P3.

After establishing that the accused had a case to answer, he chose to defend himself on oath as DW1, also calling one witness, Celina Kwaslema, as DW2.

The accused person Niima Kwaslema as DW1, testified that he neither murdered Baha Kwaslema nor Baatael Bayi. He recounted the events on both the 4<sup>th</sup> and 5<sup>th</sup> days of December 2019, to have been fully engaged in

cultivation activities, as it was the season for preparing farms. However, on the 5<sup>th</sup> day of December 2019, he was informed that people have been murdered at their home. He went to PW4's house (his father's house) and joined his relatives in doing funeral chores.

On the 9<sup>th</sup> day of December 2019, he participated in the burial services of his relative, Baha Kwaslema. However, he refuted allegations regarding the use of a car for wedding purposes, stating that his father owned no car, and he had never seen such a car. He clarified that he lived in Hanang' which is far from Bashnet.

He denied escaping, stating that he was arrested on 17/12/2019 at Mto wa Mbu at his sister's place and was blindfolded and tied up throughout. He claimed he was assaulted and forced to sign documents, and he prayed for acquittal.

Another defence witness Celina Kwaslema, as DW2, testified that she lived in Mto wa Mbu, and DW1 was her younger sibling, while Baatael used to be a house help at her father's house, and both are now the deceased. In December 2019, her younger brother visited her, and two people who were at her min grocery as her clients took him in their car.

Later on, she learned that her brother was in court at Babati. She mentioned that there was the conflict revolved around her mother's farm, as

PW4 and the accused used to farm together, but she was unaware of the reason for their disagreement. That marked the end of defence evidence.

With both sides having presented their evidence, and with the consensus of both parties, they proceeded to make their final submissions regarding the case. It's noteworthy that parties adhered to the scheduling orders by filing their submissions on time. However, I choose not to reproduce them with verbatim; instead, I will refer to them as needed during my analysis.

Before determining the guilty or otherwise of the accused person in the standard required, I wish to state this in outset that, it is evident from the charge that the accused is accused of committing heinous murders on the 5<sup>th</sup> day of December, 2019, with the charge being filed on the 26<sup>th</sup> day of March 2023.

However, there is a discrepancy noted in the statement of offence, which refers to Cap 16 R.E 2022, which came into force effective from the 24<sup>th</sup> day of June 2022 via Government Notice No. 461. This edition incorporates all amendments to the Penal Code up to the 15<sup>th</sup> day of June 2022. The offence allegedly occurred on the 5<sup>th</sup> day of December, 2019, a time when the 2022 edition was not yet operational.

This raise concerns in light of Article 13(6)(c) of the Constitution of the United Republic of Tanzania, 1977, and its amendments, which stipulate that a person cannot be punished for an act that was not considered an offence under any law at the time of its commission.

However, it is worth noting that the penal provisions regarding murder charges have remained consistent across recent revised editions, spanning from 2002 to 2022. Consequently, the aforementioned flaw may not be considered fatal, as it is safeguarded by the provisions of Section 388 of the Criminal Procedure Act, Cap 20 R.E 2022.

Sections 196 and 197 of the Penal Code, Cap. 16 R.E 2019, now 2022, when read together, provide the following:

*"196. Any person who, with malice aforethought, causes the death of another person by an unlawful act or omission is guilty of murder. 197. A person convicted of murder shall be sentenced to death."*(Emphasis is mine).

Therefore, in accordance with the provision of section 196 of the Penal Code, the burden falls upon the prosecution to demonstrate the elements required to establish the offence of murder against the accused person. In the case of **Mohamed Said Matula v. Republic** [1995] TLR. 3 the court was confronted with a murder charge, it had this to say;

*"Upon a charge of murder being preferred, **the onus is always on the prosecution to prove not only the death but also the link between the said death and the accused; the onus never shifts away from the prosecution and no duty is cast on the appellant to establish his innocence.**"*(Empasis added).

In this case, it was undisputed that deceased bodies were discovered at the residence of PW4. As testified by PW3, PW6, and PW7, these bodies were identified by relatives (Faustine Kwaslema, PW6, Joseph John, PW7, and another individual named Athanas) as those of Baha Kwaslema and Baatael Bayi. The body of the first deceased was found inside a car with registration No. T. 446 DJN, a Toyota Noah, while the body of the second deceased was covered with maize stalks, as depicted in exhibit P4.

Furthermore, there was no dispute regarding the fact that PW4 (Kwaslema Waree) is the biological father of Niima Kwaslema (the accused person), Baha Kwaslema (the first deceased), and Faustine Kwaslema (PW6). It was also acknowledged that Theresia Martin (PW5) is the wife of the second deceased, who happened to be PW4's house help, and that they all resided together in the same house with PW4.

Given that there is no dispute regarding the occurrence of the deaths of the deceased persons, this court must now address two key issues for determination:

1. Whether the prosecution can establish the presence of **malice aforethought** in the commission of the alleged murder.
2. Whether the prosecution can demonstrate that the **accused's actions or omissions** directly caused the death of the victim.

It is evident that the determination of this case hinges on circumstantial evidence, as there were no eyewitnesses to the two alleged heinous incidents. The conditions to be fulfilled when dealing with circumstantial evidence were articulated in the case of **Bahati Makeia v. Republic**, Criminal Appeal No. 118 of 2006 Court of Appeal of Tanzania at Mwanza (Unreported), that:

1. *"The circumstances from which the inference of guilt is sought to be drawn must be **cogently and firmly established**,*
2. *Those circumstances should be of a definite tendency unerringly **pointing towards the guilt of the accused person**,*

3. *The circumstances **taken cumulatively should form a chain so, complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused person and no one else, and***
4. *The circumstantial evidence in order to sustain a conviction **must be complete and incapable of explanation of any other hypothesis than that of the guilt of the accused and should be inconsistent with his innocence"***

Additionally, the Court of Appeal has reiterated on several occasions that in a criminal case relying solely on circumstantial evidence, such evidence must conclusively indicate the accused's guilt and eliminate the possibility of any other individual's involvement. See the case of **Shaban Mpunzu @ Elisha Mpunzu v. Republic**, Criminal Appeal No. 12 of 2002 (unreported).

*one else, and*

*4. The circumstantial evidence in order to sustain a conviction must be complete and incapable of explanation of any other hypothesis than that of the guilt of the accused and should be inconsistent with his innocence”*

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The prosecution evidence tries to establish that the death of the deceased person was not a natural occurrence, but was caused by an unlawful act. Their evidence was based on the fact that the throats of the deceased persons were cut, resulting in severe bleeding that led to their

death, as established by the testimony of the doctor (PW1) and the examination in the post-mortem report (Exhibit P1), indicating that the deaths were actuated by malice aforethought.

To establish these two elements, the prosecution presented three significant pieces of evidence linking the accused person to the offence of murder: firstly, that the accused person was the last individual seen with the deceased persons; secondly, the extrajudicial statement of the accused person; and thirdly, the oral confession of the accused person before PW5.

There is a principle that if the accused person was the last individual seen with the deceased, then in the absence of a plausible explanation to clarify the circumstances leading to death, he will be presumed to be the perpetrator. This principle was upheld in the case of **Mark S/O Kasimiri v. Republic**, Criminal Appeal NO. 39 OF 2017 (unreported).

Recalling the testimonies of PW4 and PW5, on the fateful night, the accused person left together with the deceased persons to escort the bride (who happened to be the accused's wife) in the motor vehicle with registration No. T446 DJN, a Toyota Noah. At 01:00hrs, the accused returned and informed PW4 that they had brought the bride, and PW5 was to receive her.

However, the accused then held PW5 captive by confiscating her phone, covering her mouth, tying her up, and injuring her hand. Subsequently, PW5 informed PW4 of the incident, prompting them to raise an alarm, gather people, and discover the body of the first deceased inside the mentioned car, while the other was found in the maize stalk about 151 meters away from each other.

I consider PW4 and PW5 to be credible witnesses, and I discern no grounds to discredit their testimonies. As in the case of **Goodluck Kyando v. Republic**, Criminal Appeal No. 118 of 2003 (unreported), it was noted that:

*“. . . it is trite law **that every witness is entitled to credence and must be believed and his testimony accepted unless there are good and cogent reasons for not believing a witness.**”*(Emphasis added).

Also, in the case of **Shabani baud v. Republic**, Criminal Appeal No. 28 of 2001 (unreported) it was observed that;

*"The credibility of a witness can also be determined in other two ways that is, **one**, by assessing the coherence of the testimony of the witness, and **two**, when the testimony of the*

*witness is considered in relation to the evidence of other witnesses..."*

The credibility of the prosecution witnesses was scrutinized regarding ownership of the motor vehicle involved in the murder. Despite the fact that the vehicle was not presented as an exhibit in the case, nor was the registration card tendered to prove ownership, the testimonies of PW4 and PW5 remained coherent. PW5 affirmed that the car was given to him by his son, establishing him as the owner. This assertion was corroborated by PW6.

Given the familiarity between PW4, PW5, and the accused, it was adequate for these witnesses to properly identify the accused on the night in question, having engaged in close conversation for a significant duration. The continuity of dialogue from the accused's request for the car to his return and communication with PW4 about bringing the bride, followed by the incident where PW5 was taken captive, supports their identification of the accused.

Similarly, PW5 explicitly stated that she could identify the accused on the fateful night when he introduced himself at the door, and she recognized him by the solar lights. Furthermore, she testified to accompanying the accused to the valley where he assaulted and raped her under the moonlight.

Given that the accused was not a stranger to PW5, I find no reason to doubt her testimony regarding his recognition. To ensure an unmistakable identity through visual identification, the court emphasized in the case of **Shamir s/o John v. Republic**, Criminal Appeal No. 166 of 2004 (unreported), that;

*"...recognition may be more reliable than identification of a stranger, but even when the witness is purporting to recognize someone whom he knows, the Court should always be aware that mistakes in recognition of those relative and friends are sometimes made."*

According to the testimonies of PW4 and PW5, they were able to establish that the accused was indeed the last person seen with the deceased individuals, as they departed together in the same car. Subsequently, the body of the first deceased was discovered slaughtered in the car, while the body of the second deceased was found slaughtered and concealed in maize stalks approximately 151 meters away. Consequently, the presumption that the accused is the perpetrator becomes inevitable. Additionally, the accused failed to provide a plausible explanation to counteract this presumption.

Despite DW1 denying the allegations, he also raised the defence of *alibi*, asserting that he was not present at the scene of the crime at the time the offences were committed. However, this defence was presented without

adhering to the requirements of section 194 (6) of the Criminal Procedure Act. The defence side failed to issue notice for the same and also neglected to provide its particulars to the prosecution side.

Despite DW1's failure to comply with the legal requirements in presenting his *alibi* defence, the court must consider the weight of such a defence if it has cast any doubt on the prosecution's case. This principle was affirmed in the case of **Kennedy Owino Onyachi & Others v. Republic** (Criminal Appeal 48 of 2006) [2009] TZCA 48 the court held that;

*It is a cardinal principle that the accused person does not have to establish that his alibi is reasonable true. All he has to do is to create doubt as to the strength of the case for the prosecution.*

It was stated in the testimony of DW1 that on the day the offences were committed, he was farming. However, he failed to provide any witnesses who could attest to seeing him cultivating to support his defence. Consequently, I find no compelling reason to believe that the accused was not at the scene of the crime during the commission of the offences, especially considering he was positively identified by PW4 and PW5.

Furthermore, PW2 testified that the accused person confessed in his extra-judicial statement (as exhibit P3) to committing the offences. This

admission aligns with the decision of the court in the case of **Nyerere Nyaque v. Republic**, (Criminal Appeal Case 67 of 2010) 2012 TZCA 103 (21 May 2012) it observed that;

*"even if a confession is found to be voluntary and admitted, the trial court is still saddled with the duty of evaluating the weight to be attached to such evidence given the circumstances of each case (See Tuwamoi v. Uganda (1967) E.A, Stephen Jason & Others v. R (supra). And lastly, everything being equal the best evidence in a criminal trial is a voluntary confession from the accused himself (See Paulo Maduka and 4 Others v. R Criminal Appeal No. 110 of 2007 (unreported)...*

*But, of course, admissibility is one thing. That is the domain of the trial court. The weight to be attached to an admitted exhibit is another."*

Upon reviewing exhibit P3 and considering the aforementioned legal principles, I conclude that the statement therein constitutes a genuine confession of guilt. This admission establishes the accused's involvement in the murder of Baha Kwaslema for the following reasons:

Firstly, the statement was recorded in accordance with legal procedures. Therefore, I find no valid grounds to discredit PW2's testimony regarding the accused's admission to participating in the killing.

Secondly, the statement contains intricate details regarding the commission of the crime. These details are such that only the accused could have provided, indicating his direct involvement.

Thirdly, there is a coherence in the statement, with common information consistent throughout. The accused explicitly stated in his statement that;

*"ilitokea siku nimeenda kwa baba akanitukana na kunieleza kuwa sisi ni wauaji ndipo nilichukia nikaenda kumweleza athanas naye alinishauri tumuue Baha ili baba fadhaike. Athanas alichokifanya alimpa hela Jacob shilingi milioni moja ili atekeleze kazi ya kumuua baha mimi nilichoshiriki ni Kwenda kumuomba baba gari ambalo baha ni dereva baba akatupa gari na hela ya mafuta na Baha (marehemu) akiwa dereva. Tulienda.....baada ya hapo Jacob akamchoma kisu shingoni baha..."*

From the above extract of the statement, it is evident that it not only reflects the truth regarding the events, including their relationship,

preparation, and execution of their plan, but also that these details were corroborated by the prosecution's evidence.

This includes the misrepresentation by the accused to PW4, which facilitated their access to Baha Kwaslema, known to be the driver of the motor vehicle. Additionally, the motive behind the crime and the accused persons' admission to their participation in the killing of Baha Kwaslema were confirmed. They are deemed principal offenders under section 22 of the Penal Code.

Regarding oral confession, this court is fully cognizant of the rule established in the case of **Zabron Joseph v. Republic**, Criminal Appeal No. 447 of 2018 (unreported) that;

*"Therefore, what we take from the above decisions of the Court, as regards oral confessions, is that one, the reliability of the witnesses to whom the oral evidence was made should be considered, and two, that oral confessions must be received with great caution."*

As I have previously stated, PW5 is a credible witness. I find her testimony to be reliable, and I am convinced that the accused person confessed to her that he had killed the two individuals, leaving her as the sole survivor. Quoting her testimonial version as follows;

*"He told me why I was asking for Baha and Baatael, then Niima told me he had finished the two of them and I was the remaining one. He told me he had cut them on their necks with the knife. He told me I was the next person to be murdered and the uncle."*

The accused person denied the charge, however, his defence failed to undermine the well-established evidence presented by the prosecution. Mr. Masanja argued in his submission that there were doubts raised on the prosecution evidence, since the accused participated in the burial service of the deceased. I find this argument baseless, as both PW4 and PW7 testified that they did not see the accused at the burial service. Even if this was to be true, this piece of evidence neither supersedes the prosecution's evidence nor negates the fact that he participated in the killings, as articulated above.

The accused person alleged that he did not make his statement before PW2. However, this is an unfounded allegation, as there is no basis laid for the magistrate to vindicate the accused, and the accused himself did not provide any evidence to support this claim.

There were allegations of torture by the police against the accused person. This appears to be an afterthought, as the accused neither informed the police authorities nor this court at earlier stages, nor did he present any evidence to establish the alleged torture. Moreover, there is no evidence to

support these claims. The prosecution established that the injuries on the accused person's legs and ribs were a result of him jumping from the police moving truck in an attempt to evade justice.

After exercising caution, I am convinced that the accused person orally confessed before PW5 to have killed Baha Kwaslema and Baatael Bayi by cutting their throats with a knife. The confession that was later made before the justice of peace (PW2).

Similarly, the accused's malicious intent to cause the death of Baha Kwaslema and Baatael Bayi can be clearly discerned. This intent is outlined under section 200 of the Penal Code, Cap 16 R.E 2022, which delineates the circumstances necessary to establish the intent to kill. Also, in the case of **Enock Kipela v. Republic**, (CAT) Criminal Appeal No. 150 of 1994, (unreported) the Court held that;

*"....usually an attacker will not declare his intention to cause death or grievous bodily harm. Whether or not he had that intention must be ascertained from various factors, including the following:*

- (G)** *the type and size of the weapon if any used in the attack; (2) the amount of force applied in the assault; (3) **the part or parts of the body the***

***blow were directed at or inflicted on; (4) the number of blows, although one blow may, depending upon the facts of the particular case, be sufficient for this purpose; (5) the kind of injuries inflicted; (6) the attackers utterances, if any, made before/ during or after the killing/ and (7) the conduct of the attacker before and after the killing.***“(Emphasis added)

In the present case, the element of malice is evident in the testimonies of PW1 through PW7, as well as in the extra-judicial statement of the accused person and exhibit P.3, where he had expressed his intent to kill the deceased persons. The execution of these malicious intentions is further evident in the vicious attacks directed at the deceased's sensitive neck area with a knife, resulting in excessive bleeding leading to heart failure and ultimately the deaths of Baha Kwaslema and Baatael Bayi. Additionally, it has been proven that after the killings, the accused fled until he was arrested at Mto wa mbu. Further indicating guilty conscious mind post the act of killing, necessary to infer malice aforethought.

As previously articulated, the circumstances pointing to the guilt of the

accused person have been firmly and cogently established. The cumulative circumstances form a compelling and undeniable conclusion, that overwhelmingly indicates the guilt of the accused person, which is inconsistent with innocence. The prosecution has successfully discharged its duty in proving beyond a reasonable doubt that the accused has committed the two offences of murder, as the defence has failed to undermine this evidence.

Therefore, I find the accused person (Niima Kwaslema) guilty on the first and second counts of the offence of murder, contrary to sections 196 and 197 of the Penal Code, Cap 16 R.E 2019, now R.E 2022, and I hereby convict him accordingly.

It is so ordered.

**Dated** at **Babati** this 8<sup>th</sup> day of April, 2024.

A handwritten signature in black ink, appearing to read 'G. N. Barthy', written over a horizontal line.

**G. N. BARTHY**

**JUDGE**

## **SENTENCE**

**Niima Kwaslema**, the accused person has been convicted with the offence of murder under section 196 and 197 of the Penal Code, [Cap. 16 R. E. 2022]. The sentence for offence of murder is that the accused must suffer death by hanging.

I accordingly, sentence **Niima Kwaslema**, the accused person to suffer death by hanging under section 196 &197 of the Penal Code [Cap. 16 R. E. 2022] read together with section 322 of the Criminal Procedure Act, [ Cap. 20 R. E. 2022].



A handwritten signature in black ink, appearing to read 'G. N. Barthly'.

**G. N. BARTHY**

**JUDGE**

**08.04.2024**

**Court: Niima Kwaslema**, the accused person, has a right to appeal against the conviction and sentence upon lodging a notice of appeal within 30 days from today.

A handwritten signature in black ink, appearing to read 'G. N. Barthly'.

**G. N. BARTHY**

**JUDGE**

**08.04.2024**

**Court:** Judgment and sentence delivered in the presence of Ms. Rose Kayumbo, State Attorney for the Republic, the accused person and Mr. Joseph Masanja, advocate. B/C Ms. Ombeni Kazyoba present.



**B. A. MPEPO**  
**DEPUTY REGISTRAR**  
**08.04.2024.**