

TANZANIA / JUDGMENT

Criminal Session Case 28293 of 2024 Judgment MrishaJ

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1 January 2024

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IN THE HIGH COURT OF TANZANIA (SUMBAWANGA DISTRICT REGISTRY) SITTING AT SUMBAWANGA CRIMINAL SESSION CASE NO. 28293 OF 2024 (Originated from Resident Magistrate Court of Katavi in P.I. 23249 of 2024) REPUBLIC VERSUS PASCHAL CHARLES BUNDALA @ ACCUSED JUD 2ft^h February & 03d March, MRISHA, J. Before ed son Paschal Charles Bundala @Cash Mon was miti rr^igned for the information of Murder contrary to section and of the Penal Code [Cap 16 R.E. 2022] (the Penal Code). Howe information in respect of that homicide offence was later substituted to that of Manslaughter contrary to section 195 and 198 of the Penal Code following the prayer of the said accused through his i advocate Mr. Eliud Ngao which was not objected by Mr. Kizito Kitandala, learned Senior State Attorney representing the respondent Republic. Subsequently thereto, the above-named accused person pleaded guilty to the abovementioned lesser offence. He also admitted to the correctness of the facts of the case which were read over and explained to the accused person to the effect that: The accused person was charged with the offence of Manslaughter after kiliing Miza Nyanda @ Minza Nyanda, the incident which happened on 14th day of November, 2020 at Kamini Suburb, Katambike village within Mpanda District in Tatavi Region. W The accused and the deceased person one Miza Nyanda @ Minza Nyanda, were husband and wife living together with their children including Dulu Elisha at Katambike Village within Mpanda District and in Katavi Region. On 14th November, 2020 at or about 2020 hours while at Katambike Village within Mpanda District and in the Region of Katavi, the accused person and his family were inside their house where the accused and the deceased fell into a quarrel and started fighting. 2 In the cause of fighting, the accused person grabbed an axe and assaulted the deceased on the neck and the deceased fell down unconsciously. Thereafter, the accused person run away leaving the deceased without any help. Dulu Elisha who is the deceased's daughter, was e and when such fight was going on, she witnessed everything aid electric solar light which was illuminating inside r in the morning she informed her uncle one out the incident. Msekwa Nyanda who info the s an ogether they went to the crime scene where t fo ased body lying on the floor with serious cu un information was supplied to the village leade nda ice station. That on the material date at or about 0800 hours, poli ficers led by SP Maria D. Kwayi, went at the crime scene togeth the medical practitioner one Adam Mnyawi. A police offi H.411 DC Ainea drew a sketch map of the crime scene. That on the same day an autopsy of the deceased body was conducted by Dr. Adam Mnyawi and according to

the Report on Post-mortem Examination, it shows that the cause of death was due to Severe 3 Traumatic Brain Injury and Hypertension (Shock) secondary to severe blood loss. The accused person was traced in vain since 2020 until when he was arrested on the 1st day of August 2024 at Kambuzi hoti Village. He was then taken to Mpanda Police Station. That on the same day the accused person was interrogated by a police officer one F.7433 D/SGT Abdallah by way of cautioned statement where he admitted to have committed the offence As indicated above, upon read over to him, the accused person confirmed to those facts are correct and he admitted to them. Consequently, the court found him guilty of the offence of manslaughter contrary to section 195 and 198 of the Penal Code, and accordingly convicted him on his own plea of guilty. Thereafter, both counsel for the prosecution Republic and the defence side made their submissions regarding the aggravating and mitigating factors all of which I have to consider in the course of assessing the proper sentence to be imposed upon the above-named accused person. The 4 prosecution attorney has informed the court that the Republic has no previous criminal records about the accused person herein. However, he has implored me to pass a serious punishment to the accused person by considering the nature of offence committed. He further submitted that the deceased has left behind two young children who needed her guidance and upbringing and that big On the other side, the learned defence counsel has submitted a prayer that his client be given a lenient punishment apart from the fact that he pleaded guilty to the offence, thus serving the time of the court and parties, that no previous criminal records. He further submitted that the deceased person had sexual relationship with another man who caused a fight, thus leading to her death; hence, she contributed to her death. It is also his submission that the accused person is a young man of 38 years old, he has one child and wife, hence, he needs to support his family. The accused person repents on what he has done, he confessed and pleaded guilty to the offence charged. 5 There is no doubt that the above-named accused person is responsible for the killing of the deceased person and for that basis, there is no way he can escape from the consequences of being incarcerated due to his guiltiness, as specified above. However, having considered both the aggravating and mitigating factors as briefly stated above, it is my settled view that the criminal conduct was done under circumstances that could not be done had the deceased person not committed such criminal act which would not have enabled his spouse upon finding the accused had sexual relationship with another man something which caused the fight between them; In the view that the said accused person is entitled to a lenient sentence. Thus accordingly, I hereby sentence the accused person Pasch Charles N. @ Cash Money to serve a prison sentence of five years upon completion of that term, he will be a good citizen in the society and able to sensitize members of his society about the need to abide to the laws of the land and be aware of the consequences of taking the law into their hands. 6 It is so ordered. A.A. MRISHA JUDGE 03.03.2025

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Prepared on 14 October 2026 · Esheria