

TANZANIA / JUDGMENT

Hamdani Ludovick

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TANZLIIDECIDED
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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA JUDICIARY BUKOBA SUB
REGISTRY SITTING AT KARAGWE ORIGINAL JURISDICTION CRIMINAL SESSIONS CASE NO.
8009 OF 2024 THE REPUBLIC VERSUS HAMDANI LUDOVICK
ACCUSED RULING OF THE COURT. Date of last Order: 19/03/2025 Date of Ruling: 25/03/2025
BEFORE: G. P. MALATA, J The accused, Hamdani s/o Ludovick stand charged for murder c/s 196
and 197 of the Penal Code, Cap.16 R.E. 2022. He is accused for murdering Paulina Mathias and
Asteria Gabriel. When this matter came for hearing before this court on 19/3/2025 both parties
appeared represented. The Republic appeared through Mr. Lugano Mwasubira learned Senior
State Attorney assisted by Mr. Erick Mabagala learned State Attorneys, whereas the accused
appeared represented by Mr. Jamal Chamani learned counsel. 1 Mr. Erick Mabagala learned State
Attorney informed this court that, on 05/07/2024 when this matter came for plea taking, pursuant
to this court's order made under section 220 (1) of Criminal Procedure Act, Cap. 20 R.E 2022, the
accused was referred to Mental Health Institute for mental examination to ascertain if the
accused was sober at the time, he committed the alleged offence of murder. On 19/10/2024, the
Mirembe National Mental Health Hospital submitted report on Mental health status of the
accused. The report has been submitted through File No. 11840/2024 in Criminal session case No.
8009/2024, for charge of murder against Hamdani Ludovick @ Danius. The report provides for
mental status of the accused, Hamdani s/o Ludovick. Mr. Erick Mabagala prayed to tender the
said medical report as evidence to prove the mental status of the accused. The Prayer
encountered no objection from the defence side. The report was admitted and marked as an
Exhibit PE1. The report reads that, I quote: "Based on the information availed Mr. Ludovick is
currently not mentally stable and he would not be able to instruct his lawyer. Mr. Ludovick did
endorse symptoms of mental illness at the time of alleged offence and even now.

1. Clinical diagnosis schizoaffective disorder (Insane)
2. He is certifiable in term of Mental Health Act. He was not able to appreciate the wrong
fullness of the alleged offence and act accordingly". On the strength of what is stated in
Exhibit PE1 that, the accused committed the offence while he was and still insane, Mr. Erick
Mabagala learned State 2 Attorney prayed to the court to invoke sections 220(4) and 219(2)
and (3) and

- (4) of the Criminal Procedure Act, Cap. 20 R.E 2022 and make an order for special finding against the accused. In reply to the submission by the Republic, Mr. Jamal Chamani learned counsel supported the position made by Mr. Erick Mabagala learned State Attorney. Having gone through the facts on record and in consideration of evidence in Exhibit PE1 from of Mirembe National Mental Health Hospital of Isanga Institute as prepared by Dr. Enock Changarawe, it is undeniably that, the accused is INSANE. In view thereof, I am persuaded beyond sane of doubt that, the accused, Hamdani s/o Ludovick is mentally disordered offender, thus required to be dealt under the provision of section 219 (2) and 220 (4) of the Criminal Procedure Act, Cap. 20 R.E 2022. On that strength, this court hereby accede to the prayer by the Republic and make a special finding that, the said Hamdani s/o Ludovick murdered Paulina Mathias and Asteria Gabriel but for reason of his insanity he is not guilty of murder charges. This verdict is made under section 219(2) of the Criminal Procedure Act, Cap.20 R.E.2022. The section states that; “Where, on the evidence on record, it appears to the court that, the accused person did the act or made the omission charged but was insane so as not to be responsible for his action at the time when the act was done or the omission was made, the court shall make a special finding to the effect that 3 the accused person did the act or made the omission charged but by reason of his insanity, is not guilty of the offence”. This court therefore hereby rule and declare that, the accused Hamdani S/O Ludovick is mentally disordered offender. As he did the act or made the omission charged but by reason of his insanity, is not guilty for the offence of murder in terms of section 219(2) of the Criminal Procedure Act, Cap.20 R.E.2022 Now, pursuant to section 219 (3) of the Criminal Procedure Act, Cap. 20 R.E 2022, it is ordered that, the accused, Hamdani S/O Ludovick be kept at Mirembe National Mental Health Hospital of Isanga Institute as a criminal lunatic for further treatment and observations for THREE (3) YEARS from the date of this order. Upon lapse of the said period, a report describing the history, condition and circumstances of accused shall be prepared by Mirembe National Mental Health Hospital of Isanga Institute and submitted to the Minister responsible for Constitutional and Legal Affairs in compliance with section 219(4) of the Criminal Procedure Act. The section reads that; “The superintendent of a mental hospital, prison or other place in which any mentally disordered offender is detained by an order of the court under subsection (3) (a), shall make a report in writing to the Minister on the condition, history and circumstances of any such mentally disordered offender at the expiration of a period of three years from the period of the court’s order and thereafter at the expiration of a period of two years from the date of the last report”. 4 Finally, the accused shall be dealt under section 219 (5) of the Criminal Procedure Act, Cap. 20 R.E 2022 which reads that; “On the consideration of a report under subsection (4), the Minister may order that the mentally disordered offender be discharged or otherwise dealt with, subject to such conditions as to his remaining under supervision in any place or by any person and to such other conditions for ensuring the safety and welfare of the mentally disordered offender and the public, as the Minister shall think fit.” ORDER ACCORDINGLY. DATED at BUKOBA this 25th March, 2025. G.P. MALATA JUDGE 25/3/2025 RULING delivered at KARAGWE this 25th March, 2025. G.P. MALATA JUDGE 25/03/2025 5

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