

19901010 TZHC Dar es Salaam2

DECIDED
10 October 1990

- ~~~~ ... ☐☐, ☐☐.: , ---.-'""::; 'T ☐, a☐☐ //7L .d .f.~-", IN THE nIGH COURT OF TANZANIA AT DAR ES S1\LAAM IJ>P3LI,ATE JURISDICTION HIGH COURT Cri!.UNl.L ,WPEAL NO~ 28 OF 198~ (From original Criminal Case No~ 117 of 1986 of the District Co.urt o:f: Ilmla District at Kisutu) THE DIRECTOR OF PUBLIC PROSECUTIONS APPELLANT , • (Original Prosecutor). versus ZUHURA ABDALLAH AND ANOTHER RESPONDENT ~ (Original Accused)

After convicting the respondents of wounding contrary to section 228 of the Penal Code, the learned trial district magistrate discharged them unconditionally under section JS of the Penal Code. The Director of Public Prosecutions is appealing against the said discharge order. The two respondents are sisters. The second respondent had a quarrel with her husband and she decided to seek refuge to her parents' home. However, her father ordered her to return to her husband. Reluctantly, second respondent obeyed :- her father's order and she was escorted back by her young sister- the first respondent. At the matrimonial house of the second respondent they found the complainant, who it transpired, was for a long time lover of the second respondent's husband. Both respondents attacked her jointly and caused her to suffer some dangerous harm. When discharging the respondents the learned trial magistrate was influenced by the fact that respondents 1- were reasonably provoked by the adulterous conduct of the complainant. I respectfully associate myself with the learned ... \I'/2 I 2 trial magistrate's sentiment. I think by discharging the respondents, the court fittingly expressed its abhorrence against complainant's misconduct. Complainant's decision to impose upon herself the matrimonial confidence in disregard to second respondent's marriage sanctity was an act of extreme moral arrogance. The court ought to frown against such immorality. The order for absolute discharge is sustained hence this appeal is dismissed. ' . ~~~ J{. A. Msumi JUDGE 10/10/1990

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