

TANZANIA / JUDGMENT

republic vs ally kenya 1988

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h i tie man court of tanzahia AT M'ZTARA ORIGINAL JURIoDI CTIOH (litwara Registry) CREIIML SESSIONS CASE MO. 15 OF 1985 TIIB REPLTULIC Versus ALLY KEBYA P R O C E E D I N G S High Court Sessions at Mtwara Date t 11,0.1936 Coraras Y, Rubama, Judge, tea S. Sangawe Ste,te Attorney for the Republic, Mr, J,B«C, Kunnrenbe Counself for the Accused, Accused(name) Alii Kenya is present under custody and represented by Mr» Kumwembe, Interpreter V, Mineche English, into Kiswahili and vice versa. Notice of trial on Information for Murder contrary to section 196 of the Penal Code was duly served on the Accused, now before the Court 011 11,3,1936, Information is read over and explained to the accused in his own language and ho is required to plead theretos- Pleas I do not accept. Entered as a plea of "1T.G," to the Charge, Trial to follow later in the Sessions and accused remanded into custody. 3gd, Yahya Rubana? Judge,

- 2 - Dates 16.2,1507 Corams Rubama? J. Mr® L.K.N. Kaduri State Attorney for the Republic. Mr. J.j3«C0 Kumwombc? Counsel for tlio Accused. Accused(namc) Ally Kenya is absent. Court sHearing is adjourned to a dato to bo fizod by DR. 3gd. Yaliya Rubama? Judge o 16*2.37 Dates 24.2.37 Corams Rubama? J. Mr. Sengwaji Sen, State Attorney for the Republic. Mr. J.B. C. Kumwembo Counsel for the Accused. Accused (name) Ally Kenya is present. Information is read out to accuscd who is asked to plead. Pleas It is not true* Entered % N. G. 3,3d. Yahya Rubama ? Judge a 24.2.37 Mr. 3en.sK-a.iig The accused was examined by a medical doctor immediately following the alleged killing by hi:::. The doctor is of the opinion that the accused may not have been mentally sound at the time and has recommended? especially in view of known history of insanity within his family that he bo sent to Isanga Mental Institution for further examination. I pray that the accused be sent there. I apologise for having made this request this late. Court s Hearing is adjourned to a date to bo fixed by DR. Accuscd is to bo sent t:> Isanga Mental Institution for Medical observation in accordance with ithe Criminal Procedure Act, 1905® >'1. Yahya Rubama? Judge, 24.2.37
- 3 - Dabos 15,,9o1903 Corams Hon. Itubana, J,, Mto LoKoiTo Kadurj. State Attorney for the 3.epublic<> Mr. J.I.Fo IcSyanaabo Counrjol for tho Accused assisted "by Kamugisha, Mr. Accusod(namo) Ally Kenya is present undo? custody. It is truOo I had killed tho deceased but without intentions Entered s 1-T.G. Sgd. Yahya Eubama, Judge,, 15.9.38 Mr. ITdyanabo s The accused offers a plea, of guilty to a manslaughter. Mr. Kaduri s The Republic accepts the

plea. Sgdj (Yahya iibubama? Jud^oo 15 9 38 o o FACTS by Mr. Kaduris The killing took place at Chakama village, IJasasi District on 26.5^o^-o On this dato, one Mohaned Omari had prepared pombe for people who had gone to assist him cultivate his shariba. During the drinking, one Simon Striupi, the doccased had reserved some of the pombo ho got for drinking at a later time. Simon Staupi was at this time drinking some of the pombe from a container known in local vernacular as "Kiloto". The accused, Ali Kenya appeared on the scene and grabbed the "kiloto" from tho deceased* Some of tho poribo in the "kiloto" thereby got split down. A fight ensued as a result tho accused first ran away from the scene only to ;? etuKi to the scone shortly thereafter,, A fight rosune.'U H43 accused and the deceased

- 4 - wont away from the crowd, During tlio fight, the accused hit the deceased with a stick or pounding atick^ The deceased was injured and died of the injuries. Post mortora axauinevbion was performed on the body of the deceased and the doctor has stated tho cause of death was internal haemorrhage caused by fractured ribs* I produce tho Post mortem examination report^ Myanabo s I have no objection^ Courts Admitted and marked Ebdi^ Pol^ Mr. Kaduri g The accused was arrested and charged as per charge sheet. Accuseds Tho facts as outlined by the prosecution are true and correct^ Courts On the facts accepted as true and correct by the accused. I find the accused guilty of manslaughter and I convict him^ Ogd^ 'Jahya Rubama, Judge^ 15 ^9^ 38 Mir^ Kaduri s Accused is a first offender^ Mr^ Ndyanabo s The accused has pleaded guilty to tho charge and prays that the sentence to be imposed bo lenient because of tho following reasonss
- (1) Accused was arrested on 26^ 5^04^ He has been in remand for 4 ,Tears 4j,'->tionths. While in Prisons, he contacted eye* leseased - he is partly blind^ lie also suffers f rom ahest pains^
- (2) He is young - 27 ; oars^ Hot married but he has aged parents not i.n good health dependent on him^
- 5 - Accused s 1 have nothing more to add^ Courts Taking into connideration t.'io nitigating factors, I aontonco tie aocusod to 3 yoarn imprisonment0 8gd,, Yahya Rubamas JudgGo 15>9o33 Right of Appeal against sentence explained,. Sgdo Yahya Rubama? Judge* . 1 5 9.80 I certify that this is a truo and correct copy of the original proceedings* DISTR M H A 3 A

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