

TANZANIA / JUDGMENT

republic vs mwamvua almas mariam

2022 tzhc 15073 13 december 2022

COURT
TZHCDECIDED
13 December 2022

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THE UNITED REPUBLIC OF TANZANIA JUDICIARY IN THE HIGH COURT OF TANZANIA
SUMBAWANGA DISTRICT REGISTRY AT MPANDA CRIMINAL JURISDICTION CRIMINAL
SESSIONS CASE NO. 20 OF 2021 REPUBLIC VERSUS MWAMVUA D/o ALMAS @ MARIAM

JUDGEMENT

When the information of Murder Contrary to Section 196 and 197 of the Penal Code Cap 16 R.E 2002 was read to the accused and explained to him in the language he understands when required to plead thereto, the accused pleaded not guilty to the charge. The court entered plea of not guilty. Through the service of Mr. Gadici Sindamcnya defence counsel, the accused person prayed to plea on lesser offence of Manslaughter. There was no objection. When the charge information on manslaughter contrary to Section 195 and 198 of the Penal code was read and explained to the accused, when required to plea, the accused pleaded guilty to the charge. Upon her plea of guilt, the prosecution adduced facts constituting the offence of manslaughter. The court read and explained the facts to the i accused person. Upon explaining the facts, the court then gave the accused an opportunity to state on correctness or otherwise of the facts, the accused admitted the facts and said they are correct. The prosecution tendered post mortem report and sketch map which were admitted in court as exhibit P1 and P2 respectively. From the above circumstances, I am satisfied that, the accused plea of guilty was free from her own will and was aware of what she was pleading. I further hold that the accused plea is unequivocal. Consequently, this court find the accused guilty and is accordingly convicted for the offence of Manslaughter as charged. Sgd: A. A. MRISHA Judge 13/12/2022 PRE-SENTENCE HEARING Flavio Shio — State Attorney: My Lord we have no previous record of the accused person before the Court. We therefore pray that the accused be punished according to the circumstance surrounding the commission of the crime. It is very sad for a person to use petrol and set fire to another person. We also pray that the life of the person was lost and she died in a severe pain. That is all my lord. 2 Gadici Sindamena - Advocate: My Lord we pray for lenience for the following reasons: -

1. Accused person has two young children which need closeness of her mother and after she was arrested their children were drop out of the school.

2. Accused person has a mother who is old, they were living together before she was arrested.
3. Accused person repented what she was doing. She was not mental ok when she committed the offence because of jealous.
4. Accused person was very young, the society need her to the development of the country. She pealed guilt hence she serving the time and costs of the Court. She is also a first offender. I humbly submit my Lord. Sgd: A.A Mrisha Judge 08/12/2022 ORDER Sentence to be pronounced on 13/12/2022. Sgd: A.A Mrisha Judge 08/12/2022 3 SENTENCE The accused MWAMVUA ALMAS @ MARIAM has been found guilty and consequently convicted of MANSLAUGHTER upon her own unequivocal plea of guilty. The issue of sentence has considerably exercised my mind, in particular as to what is the appropriate sentence to be meted to the accused considering the circumstances surrounding the commission of the crime she was charged and ultimately convicted. I have seriously considered the mitigating factors that the defence has raised in the course of praying for a lenient sentence. That include the fact that the accused is first offender who do not have history of a troubled past, the accused has two young children needs close upbringing of her mother, accused was living with her mother who is very bld and she depend on her, accused repents and she is young lady society need her to the development of our country, lastly, she pleaded guilty, hence she served the time and costs of the Court. I have taken into consideration the facts that the accused the death of the deceased, she was burned by fire for 95% of her body which is frowned upon for being inhumane and degrading treatment. In totality of the above and am aware the accused has spent in remand custody for two years and 4 nine months and also the principle in Willy Waloshwa Vs. Republic, Criminal Appeal No. 7 of 2002 and Bernadeta Paul Vs Republic [1992] TLR No. 97 the accused is hereby sentenced to a prison term of ten years which I find to be deserving given the circumstances of the commission of the crime. Order accordingly. Right of Appeal explained. 5

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