

**IN THE HIGH COURT OF TANZANIA**

**(MWANZA REGISTRY)**

**AT MWANZA**

**CRIMINAL SESSIONS CASE NO. 77 OF 2019**

**THE REPUBLIC .....PROSECUTOR**

**VERSUS**

**NICHOLAUS S/O LIGHT MUYA..... ACCUSED**

**SENTENCING**

The accused person has been convicted for the offence of manslaughter u/s 195 and 198 of the Penal Code, Cap. 16 [R.E 2019]. The maximum sentence for the offence of manslaughter is life imprisonment. The circumstances of this case do not warrant a maximum sentence or a medium sentence but a lower sentence. After considering both the aggravating and mitigating factors, the homicide in question it seems to me, is caused by high degree of provocation. According to the evidence in caution statement (Exhibit P3) and the extra Judicial Statement (Exhibit P4) on the material day and time the accused went to the office of the deceased for the purpose of reconciling their dispute/ misunderstanding which arose from their love relationship.

Exhibit P3 and P4 shows that the accused was readily available to reconcile the dispute which arose between them but the deceased seems not to be ready even through she was the one who called the accused to her office.



When he was about to left the deceased's office after they have failed to reconcile, the deceased call back the accused. It is evident in Exhibit P4, the cautioned statement that the accused was provoked after he was called by the deceased to reconcile the dispute and to find out that there was no such possibility because the deceased was not willing to have the discussion on that issue. The accused got angry, he held the accused tight and actually strangled her by using his hands and later on by using internet cable that was near to him in the deceased's office.

In that circumstances, I agree with Ms. Sabina Choghoghwe, learned state attorney that homicide arising from the misunderstanding in their love relationship and that the accused was provoked.

Ms. Sabina Choghoghwe also submitted that since the accused has been found guilty and convicted for the offence, in order to deter the accused and other members of the public from repeating the same, the sentence should be imposed to the accused taking into consideration that the accused killed the young woman.

In passing sentence, I have also given consideration to the mitigating factors submitted by the defence counsel. The counsel for defence has invited me to consider the fact that the accused is the first offender, the accused pleaded guilty to the offence of manslaughter, his pleas to the offence shows that he repents/regrets for what happened. The same is also proved in exhibit P3 and P4. The accused has been in custody for almost three years and 4 months, the evidence tendered shows that the accused was provoked by his



lover and since the accused is on prime age, he deserved mercy of the court and the lenient sentence.

This court believe that the circumstances in which the accused caused the death of the deceased was based on the provocation in which the accused had no time to cool down his temper. I also believe that the time in which the accused had spent in custody is a lesson learnt. Since the circumstance of this case warrant a lower sentence in which the appropriate sentence range from conditional discharge to four years imprisonment, I am hereby sentenced the accused to four (4) years in jail and the period in which the accused was in custody has to be deducted.



**Sgd. M. Mnyukwa**  
**Judge**  
**28/09/2021**

Right of appeal against sentence explained and guaranteed.

**Sgd. M. Mnyukwa**  
**Judge**  
**28/09/2021**