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IN THE HIGH COURT OF MALAWI  
CRIMINAL DIVISION Lilongwe Registry  
SITTING AT DEDZA  
CRIMINAL CASE NO. 54 OF 2018

BETWEEN:

THE STATE  
-V-  
GLADYS MANYERA

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CORAM: HON. JUSTICE Dr. C.J. KACHALE, *Judge*

*E. Ndingo/Matonga*, Senior State Advocates for the State

*Mwenefumbo/Nyirenda*, Senior Legal Aid Advocates of Defence Counsel

*Namagonya*, Court Reporter

*Choso*, Court Clerk and Official Interpreter

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SENTENCE

On 16<sup>th</sup> September 2015 *Yesani John* had a quarrel with his wife in the presence of (among others) his sister-in-law *Gladys Manyera*; their family was living at the wife's village (i.e. *chikamwini*). In the meantime *Yesani John*, who was carrying a calabash of some local brew, also insulted *Gladys* for allegedly meddling in his matrimonial affairs; *Gladys* in turn grabbed him by the neck, causing the local brew to spill onto her back. In anger *Gladys* (who felt he had spilled the beer on her on purpose) punched her brother-in-law repeatedly in the face. That resulted in *Yesani John* bleeding heavily from the nose; soon thereafter he left the matrimonial village and went back to his original village. When he lay down on a mat still bleeding profusely his last words to his mum were "*Gladys Manyera wandipha!*"

Later he was taken to hospital a post-mortem examination established that death had been caused by internal bleeding. The clinician observed that there were blood clots on the face and blood was lost through the nose, mouth and even ears. There was evidence of bruises on the head and face. When *Gladys Manyera* was arrested and charged with unlawfully causing the death of *Yesani John*, she readily admitted the charge; as she has done in this trial.

For purposes of sentencing the state has reminded the court that though she is a first offender a human life has been lost and a meaningful sentence should be meted out accordingly. However, her defence counsel has made reference to several decisions where the sentences for manslaughter ranged from between 3 years to 5 years imprisonment, my court has been invited to do likewise. In considering the significance of those decisions my court has been instructed by the observations of *Justice Chipeta* (as he then was) in the case of the **Republic-v-Leonard Chinguwo**, Criminal Case No. 53 of 2008 (High Court) (Principal Registry) (Unreported) where he lamented thus:

“...it beats me how in exercising leniency in a manslaughter matter, where life is lost for good, a Court can go so overboard and punish the offender with a penalty going below a penalty it gives for offences where no loss of life is involved. Briefly referring to the case authorities that were cited, I am pleased that they are cases that were decided in the High Court, and that they thus only have persuasive authority in my Court. My mind goes to sentencing principles that have developed, both in homicide cases and in comparable offences of a serious nature. We have for example Burglary, a sister offence to Housebreaking, under section 309 of the Penal Code, where custodial sentences are basically imposed as a matter of course. For these offences, records will show, it is rare for courts to impose less than 3 or 4 years imprisonment on offenders, just because of the gravity inherent in the offences. Further, if one looks at offences of Robbery under section 301 of the Penal Code, the same sentencing trend appears, and in the aggravated type of Robbery, sentences meted out by the Courts do get quite severe. Like Manslaughter, both Burglary/Housebreaking and Robbery carry life imprisonment as punishment, although death is the maximum for the first two.”

With those very sound sentiments of the learned *Judge Chipeta*, my court is in full agreement. We cannot as courts of law impose orders for manslaughter cases which do not in any sense reflect the inherent gravity of the crime under

which do not in any sense reflect the inherent gravity of the crime under consideration; every homicide represents a lost human life.

We cannot in good faith treat loss of property as more reprehensible than loss of life. It is quite disheartening that the trend of homicide trials being heard during these assizes discloses a rather casual attitude to human life and an inexplicable readiness to resort to violence even in disputes that do not merit such lethal force. Such a callous attitude to human life is very reprehensible and needs to be addressed quite sternly, even whilst appreciating the other mitigating factors in favour of the offender. The sentence which this court would impose on the offender, even in light of her plea of guilty, must reflect such gravity.

In light of all these matters, therefore, this court hereby condemns you **Gladys Manyera** to **14 years imprisonment** with hard labour effective from the date of your arrest.

Pronounced in open court this <sup>14th</sup> day of <sup>August</sup> May 2018 at Dedza

  
C.J. Kachale, PhD

JUDGE