



**REPUBLIC OF MALAWI
MALAWI JUDICIARY
IN THE HIGH COURT OF MALAWI
LILONGWE DISTRICT REGISTRY
CRIMINAL CASE NUMBER 49 OF 2020**

BETWEEN

THE REPUBLIC

AND

MOHAMED SHAHIN MAHOMED IQBAR JUMA

Coram : **Honorable Mrs. Justice F.A Mwale**
 Hon. DPP, Dr. Kayuni, of Counsel for the State
 Mr. Kaonga, of Counsel for the Accused
 Mr. C. Mpandaguta, Official Interpreter
 Mrs D. Ntaya, Court Reporter

Mwale, J

RULING ON RECUSAL

1. I have been handling this matter in which the accused, MAHOMMED SHAHIN MHAOMED IQBAR JUMA stands charged with the offence of Murder contrary to section 209 of the Penal Code. In particular, he is alleged to have caused the death of his wife ZAHEERA JUMA with malice aforethought on or about the 19th day of December 2019 at Area 9 in Lilongwe District. He pleaded not guilty to the offence. He has made several bail applications which have been denied and remains remanded in custody to this day. The accused was found with a case to answer on 7th July 2020. Thereafter, an application was made by counsel for the accused person asking the Court to revisit the finding on a

case to answer; however the ruling of this Court stands and the application was dismissed. The case is now at the defence stage.

2. Today, on 15th April 2021, during the defendant's testimony in his defence, he testified to the effect that his father-in-law, JAMAL AKBANIE, broadcast on a family social media group (WhatsApp) with membership within and beyond Malawi, on Wednesday 9th June (presumably 2020), amongst other issues, that the Khatrii community had organised between K20,000,000.00 and K25,000,000.00 to bribe the judge in the matter. It was a rallying call for members of his community to turn up at the court in solidarity against the release of the accused. An audio recording of the said JAMAL AKBANIE making this broadcast was played in court.
3. As a judicial officer who has sworn to uphold the law and protect the Constitution, I must abide by the sacred principle that "*justice must not only be done, it must also be seen as being done*". The accusation, though untrue, has been brought into the public domain at this point. Any credible action taken in response to the accusation by the authorities (should the need arise) cannot proceed while I am handling the matter. After careful reflection, with the utmost, regret in view of the advanced stage to which this manner has progressed, I have decided to recuse myself. My recusal shall pave the way for justice to be seen as being done, with the case being presided over by a judicial officer who has no cloud of wrongful allegation hanging over his or her head.
4. I also reserve the right, as an aggrieved person, to protect my reputation through the civil courts.
5. This matter is adjourned *sine die*, pending reallocation of the matter to another judge.

I so order.

Made in Open Court in the Republic on this 15th day of April 2021.



Fiona Atupele Mwale
J U D G E