

IN THE HIGH COURT OF ZAMBIA  
HOLDEN AT LUSAKA  
(Criminal Jurisdiction)

HP/85/2025

THE PEOPLE

V

JONATHAN CHIFULU



**BEFORE THE HONOURABLE MR. JUSTICE I. M. MABBOLOBOLO IN OPEN COURT ON THE 16<sup>TH</sup> DAY OF MAY, 2025.**

**For the State:** Mrs. S. M. Besa, Senior State Advocate – National Prosecution Authority  
Ms. S. Mumbula, State Advocate: National Prosecution Authority

**For the Defence:** Ms. A. Chibale, Mesdames Mushipe & Associates  
Mr. N. Tembo, Legal Aid Counsel - Legal Aid Board.

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**JUDGMENT**

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**A. CASES REFERRED TO:**

1. *Mwewa Murolo v The People*
2. *Mbomena Moola v The People*, SCZ No. 35 of 2000
3. *The People v Richard Mwanza HJ/45/2001 (Unreported)*
4. *Mbaye v The People (1975) Z.R. 74*

**B. LEGISLATION REFERRED TO:**

1. *The Penal Code Chapter 87 of the Laws of Zambia*
2. *The Criminal Procedure Code Chapter 88 of the Laws of Zambia*

1. **JONATHAN CHIFULU**, (the accused) was charged with the offence of **Murder** contrary to **Section 200** of the **Penal Code Chapter 87** of the **Laws of Zambia**.
2. Particulars of the offence are that the accused on the 12<sup>th</sup> day of September, 2023, at Lusaka in the Lusaka District of the Lusaka Province of the Republic of Zambia did murder **NELIA CHIFULU** (“the deceased”).

3. The accused denied the charge and the Matter proceeded to trial.
4. I have warned myself throughout the trial and indeed at the time of writing this Judgment that the burden of proving the charge against the accused lies from beginning to end on the Prosecution to prove every element of the offence beyond reasonable doubt. If there is any doubt as to the guilt of the accused, I must acquit the accused and set him on his liberty. There is absolutely no burden placed on the Accused to prove his innocence. I find the case **of Mwewa Murono v The People**<sup>1</sup> instructive on this principle of the law.
5. The ingredients of the offence of **Murder** are found in **Section 200** of the **Penal Code Act Chapter 87** of the **Laws of Zambia** and couched as:

***“Any person who of malice aforethought caused the death of a person by an unlawful act or omission is guilty of Murder”.***

6. To succeed in establishing the guilt of the accused, the State must prove the following elements:
  - i) *The accused person had malice aforethought; and*
  - ii) *The accused person by an unlawful act or omission caused the death of another person.*

In legal parlance, there ought to be *mens rea* and *actus reus*.

7. The Prosecution, in its endeavor to prove its case called Five (5) Witnesses. The first one was 61 year old, John Sinkala, a farmer of Shamutinta Village, Katoba, in Chongwe District (hereinafter referred to as **“PW1”**). In recalling the events of

12<sup>th</sup> September, 2023, between 08:00 and 09:00 hrs while in the garden, **PW1** said he received a phone call from his younger brother Charles Foloko who wanted to find out if his vehicle was in a good condition and his response was that it was not. The younger brother then proceeded to request for 2.5 litres of diesel to be used to take the deceased to the clinic following which **PW1** informed his younger brother that he could go to collect the same.

8. It was **PW1**'s testimony that upon inquiry on what had happened, he was informed that the accused had severely beaten up his elder sister, the deceased. That after giving his younger brother the diesel, **PW1** informed him that they would find him at the clinic. That he proceeded to the Clinic and when the vehicle carrying the deceased arrived, he was already there. He stated that the personnel at the Clinic came out and conducted their examination right in the vehicle and they were informed that the person they had taken was already dead. That they contacted the deceased's children from Lusaka who informed them that they were already on the way and nearby. When the children arrived, the deceased's body was moved from the vehicle which had taken them to the clinic and put in another vehicle which the deceased's children had gone with and proceeded to the mortuary where the deceased was deposited and they reported the matter to Police as advised.
9. It was **PW1**'s testimony that while they were at the Police, the children of the deceased took the accused who had been apprehended. He testified that he had known the accused since 1996 and that he was **PW1**'s uncle.

10. In Cross Examination by Mrs. Chibale, **PW1** confirmed that he was not present when the incident occurred. He confirmed that he was related to the deceased and that it was correct to state that it pained him so much that he wanted to see someone punished. He also confirmed he was called by phone and informed that the accused is the one who had committed the offence.
11. It was **PW1**'s confirmation that, when the deceased was taken to the Clinic, she was already unwell and that he did not know what had caused the deceased to be found in that state. **PW1** stated that it was not possible to talk to the deceased at the time because she was not able to speak. On whether it would be correct to say that **PW1** was a witness with an interest to serve as it had pained him a lot that the deceased had died and he would like someone to be punished, **PW1**'s response was that when a person is an offender, they deserve to be punished.

There were no questions in Re-Examination.

12. **PW2** was 55 year old, Margaret Chifulu, a farmer of Chiwaya village, Chongwe District. She testified that on the 12<sup>th</sup> day of September, 2023, she was at her home when she heard noise from her brother's (the accused's) house and she started going towards there. That she met a child, Emmanuel Chifulu (child to the accused) who told her that Nelia Chifulu (the deceased) had been beaten by his father and she was lying down with blood coming out of her nose.
13. According to **PW2**, when she reached there, she found the deceased lying down with blood coming out of her nose and scratches on her head. That she then sent Emmanuel

Chifulu to call Mawata Chifulu from her home while she went to search for network and called Harold Lukula, a child to the deceased. That upon her return, she found Mawata Chifulu and Sylvia Chifulu and together they lifted the deceased from where she was lying and took her to **PW2**'s house as they prepared to take the deceased to the Clinic.

14. It was **PW2**'s testimony that when they reached Katuba Health Centre, Dr. Bruce, came out and told them to take the deceased who was in the vehicle to UTH. That when the deceased's children among them Harold arrived, they lifted the deceased into the bus and they proceeded to UTH mortuary. That they then went to the Police within UTH where they were told to go to Woodlands Police Station they gave statements.
15. Tracing back her testimony, **PW2** stated that at the point when she had found the deceased lying down, she found the accused loitering around and she did not talk to him as she was scared seeing how the accused was pacing up and down. That she was scared because he was not looking okay and his eyes looked like he was not himself.
16. In Cross Examination by Mr. Tembo, on her testimony that the accused was not looking well, **PW2** confirmed that the deceased suffers from a mental illness and that the mental disease is something that comes and goes. She declined to confirm that the accused had been in Chainama where it had been established that he has a mental illness. She however agreed that on the material day she was scared to look at him.
17. There were no questions in Re- Examination.

18. Mawata Chifulo, 50 year old farmer of Chiwaya Village, Chongwe District was the Prosecution's third witness (**PW3**). She testified that on the material day, as she was working in the garden, she saw the child, Emmanuel Chifulu arrive and say that his father (the accused) had beaten his auntie ("the deceased") and he had left her lying down and bleeding. That **PW3** rushed there and found the deceased lying on the ground with blood coming out from the mouth and head. That she held the deceased and when she did so the accused told her to remove the body from there because if she did not, the accused would burn it.
19. According to **PW3**, they carried the deceased's body and took it to the house of Margrat Chifulu (**PW2**). That when they arrived there **PW3** started cleaning the deceased on the nose, mouth and head. When the vehicle arrived, the deceased was placed in there and taken to Katuba Clinic where a nurse informed her that the person had died and advised that the body be taken to the mortuary.
20. It was **PW3**'s testimony that when they arrived at the mortuary, they were advised to report the case to the Police which they did at Woodlands Police Station and later the body was deposited in the mortuary. She testified that at the time when she found the deceased bleeding from her nose, head and swollen face, the accused was seated under a tree alone. That it was at that time that he uttered the words about burning the body if **PW3** did not remove it. That the accused had issues with his heart and would get very angry. **PW3** thought that when this particular incident occurred, it was the second year since the accused's anger

problem had started. Further that the relationship between the two was that the deceased was the elder sister to the accused. That the deceased had her own residence and that she had only gone to greet the accused at his house on the fateful day.

21. In Cross Examination by Mrs. Chibale, **PW3** confirmed that the accused had a heart problem which used to cause anger in him. She stated that she was aware that there was a Medical Report which shows that the accused was a patient at Chainama at one time.
22. **PW4** is 14 year old Emmanuel Chifulu, a grade 5 pupil at Nang'ombe Primary School who told Court that he remembers what happened on that day. He stated that he was sleeping in the house in the morning and then he heard some noise outside. According to **PW4**, the people who were making noise were Jonathan Chifulu (the accused) and Nelia Chifulu (the deceased). That the two were fighting and when he went outside, he noticed that the deceased was lying on the ground and the accused was standing holding a stick in his hands.
24. It was **PW4's** testimony that he noticed that the deceased had blood coming out from her head and he rushed to tell Margarat Chifulu (**PW2**) that his father (the accused) had beaten his auntie (the deceased). That when they went back to the scene, he was sent to call Mawata Chifulu (**PW3**) and when he went to fetch her, he found her in the garden and so he informed her that the accused had beaten the deceased with a stick and that **PW4** never went back home thereafter.

25. **PW4** testified that Nelia Chifulu (the deceased) was his auntie and is at the burial site as she is deceased. That Jonathan Chifulu (the Accused) is his father and the deceased was the elder sister to his father.
26. There were no questions in Cross Examination.
27. The Prosecution's last witness was Detective Inspector Richard Siadyomba of Mtendere East stationed at Woodlands Police Station (**PW5**). He testified that on 13<sup>th</sup> September, 2023, at around 08:00 hours when he reported for work, he was allocated a docket of **Murder** contrary to **Section 200** of the **Penal Code**. The complainant was Male Sinkala John of Shamutinta Village, Katoba Area. He complained that his auntie Nelia Chifulu aged 66 years old (the deceased) was murdered by a known person on 12<sup>th</sup> September, 2023, between 07:00 hours to 12:00 hours.
28. **PW5** stated that investigations were instituted in which the Scenes of Crime Officer and himself went to Chiwaya Village in Katoba village where they found other people at the house of the accused person, among them, Emmanuel Chifulu (**PW4**) and Margaret Chifulu (**PW2**). That Emmanuel Chifulu (**PW4**), is the son of the deceased and Margret Chifulu (**PW2**) is the elder sister to the accused. That he interviewed Emmanuel (**PW4**) in the presence of his auntie who later led him to the scene where the deceased was lying in a pool of blood.
29. According to **PW5**, **PW4** told him that he was in the house sleeping and heard noise outside. That when he went outside, he found that Male Jonathan Chifulu (the accused) who is his father had beaten the auntie (the deceased) using

a stick and that as he was doing so the auntie remained unconscious. That **PW4** went to call his auntie Margaret Chifulu (**PW2**) so that they could help as he was too young. Further that **PW4** when asked said that he could identify the stick that the accused was using to beat the deceased though he could not remember the colour but that it was about 1.3 to 1.4. metres. That **PW4** told **PW5** that he did not know where the father (the accused) had put the stick.

30. It was **PW5**'s testimony that he met Margaret Chifulu (**PW2**) because she is the one who was called and who picked the deceased's body from the scene with other good Samaritans and took it to Katoba Clinic where they were informed that the person they had taken was dead and that it was a Police case via Woodlands to UTH. He testified that when they went back to Woodlands Police Station, they found that the accused was already at the Police Station having been taken there by the relatives.
31. Testifying further, **PW5** stated that he and his colleague picked the accused from the cells and interviewed him over the case of Murder. That the accused revealed to them that a month prior to the quarrel with the elder sister (the deceased) he had quarreled with his wife and culturally and traditionally, the wife went to the mother in law following the fight with her husband (the accused). Further that after the elder sister (the deceased) saw that the children were suffering because of the absence of the accused's wife, she made an effort to go and talk to the accused over the incident according to Margaret Chifulu (**PW2**).

32. Further that on 12<sup>th</sup> September, 2024, in the morning, the elder sister (the deceased) to the accused went to his home to talk to him in relation to the absence of his wife. That it was at that point that the accused and the deceased started quarrelling which resulted into the beating of the deceased by the accused. According to **PW5**, he asked the accused where the stick he had used to beat the deceased was and the accused led him to where the stick was. There was no objection to the voluntariness of the evidence of leading so trial proceeded.
33. According to **PW5**, before going to visit the crime scene, the Scenes of Crime Officer had invited the relatives to the accused, after following the normal procedures of warning the accused. That they moved to the crime scene where the accused led them to where he had thrown the stick which was broken into two pieces. That after the scene visit, they went back to Woodlands Police Station where a Warn and Caution Statement was given, the arrest effected and the accused gave a free and voluntary reply admitting the charge.
34. **PW5** brought to the Court's attention other information regarding the injuries sustained by the deceased to her head which led to her death because of the stick used to beat her and the cause of death was indicated in the Medical Report issued by UTH. He stated that when they had gone to the scene, there was a hoe which had been used to disturb the crime scene, that is to say, there was some digging to try and conceal the blood where the deceased had been lying. **PW5** tendered into evidence the broken stick, "**ID1**", the Medical

Report “**ID2**” and the hoe “**ID3**” which had been in his custody. The exhibits were admitted into evidence as “**P1**”, “**P2**” and “**P3**” respectively.

35. In Cross Examination by Mr. Tembo, **PW5** confirmed that he did not see the accused covering the blood using a hoe nor did any one tell him that they saw the accused covering the blood using a hoe and that he was not assuming that it was the accused who had covered the blood. He denied that the accused had told him that when the deceased went to see him, he was not feeling well. When pressed further that at the time he was investigating, the sisters to the accused had told **PW5** that the accused had a mental problem, he denied the claim. That he only knew this when the matter was already in Court.
36. When asked whether the sisters to the accused had informed him that the accused was in fact admitted at Chainama on 19<sup>th</sup> August, 2022, and that he had attempted to commit suicide, **PW5** responded that he came to know all this information when the matter was already in Court. When asked whether he also came to learn that the accused had been diagnosed with Bipolar condition, **PW5** responded in the negative. He agreed that when the accused told him that he was not feeling well, he did not investigate the matter further. He responded in the negative to the question whether the sisters had informed him when they found him at his house following the beating of the deceased, that the accused was just moving up and down and he did not seem alright.

37. **PW5** conceded that as of the date that he was giving his testimony in Court, he had come to learn that there is a Medical Report, though he had not seen it, which shows that the accused has Bipolar Disorder.
38. There were no questions in Re- Examination.
39. At the close of the Prosecution case, I found the accused with a case to answer and placed him on his defence.

### **Defence Case**

40. The accused, aged 48 years, a farmer of Katoba Area in Chongwe (hereinafter referred to as "**DW**") gave sworn testimony on his own behalf and called no other witness. According to **DW**, he started feeling unwell in February, 2022, and was taken to Chainama by his brother and son. That he was given medication and advised to be going back there from time to time which he continued to do until he got better.
41. Testifying further, **DW** stated that in 2023 again, he started getting the same illness by feeling confused in his brain and pain in the heart preferring to be alone and not wanting people to talk to him. That they went back to Chainama where he was given more medication with advice to return when the medication finished. That whilst he was still unwell, his sister (the deceased) went to see **DW** on 12<sup>th</sup> September, 2023.
42. According to **DW**, he had quarreled with his wife who had gone back to her place and he had wanted her back. So his sister (the deceased) advised that **DW**'s wife could not come back because there were still discussions to be held to settle

the matter. So **DW** 's response was that if that was the case, they should leave discussion of the issue to some other day. **DW** restated that again he told the deceased that he was not feeling well and did not want to discuss the matter. That the deceased continued talking about the matter and **DW** told her that he did not want to talk and then he started beating her until she fell down. That **DW** then beat her with a stick on the head and she started bleeding after which **DW** left.

43. It was **DW**'s testimony that thereafter his other sisters (**PW2**) who stays nearby and the other one who stays further (**PW3**) came to pick up the deceased and took her to **PW2**'s place. That from there he did not know what happened to the deceased. At that point, he did not go anywhere and was just seated at home until he saw the deceased's children arrive. That they picked him up and took him to Woodlands Police Station. Further that they went back to the scene the same day so that the Police could see and later returned him to Woodlands Police Station.
44. In Cross Examination by Mrs. Besa, **DW** stated that the deceased was their first born and at the time of her death, he was 47 years old himself. When asked to confirm that he had hit his sister until she died, **DW**'s response is that she was still breathing. He however agreed that it was because of the beating that she died.
45. When asked further what the deceased wanted from him when he beat her, **DW** responded that the deceased had gone over the same issue of differences between **DW** and his wife. He added that she had gone there to discuss issues concerning **DW**'s wife who had gone away from home. When

pressed whether what the deceased had said could have provoked him, **DW**'s response was that if one is alright, you can sit and discuss but if you are not well, you can not sit down to discuss. He denied that what he was saying is that if you are not feeling well then you can be provoked even if the issue is not provocative. He agreed that the deceased meant well and had good intentions.

46. Responding to the question what he had used to beat the deceased, **DW** said he had used his hands and a stick. He said that he would not remember the stick if it was shown to him because it had been a long time ago but added that it was 1 metre in length. When the exhibit **P1** was shown to him, **DW** replied that it was not the one. In further Cross Examination, he responded that he had hit the deceased twice on her head.
47. Regarding whether when he hit the deceased twice on her head he did not know that he would hurt her, he replied that as he had explained, he was not feeling well as he had anger in his heart. On what made him angry, he stated that is just the way he was feeling since he started being sick (anger and hot temper and nothing else). Pressed further on why he did not just leave the deceased when he felt the anger, **DW**'s reply was that it so happened that he felt like he was confused and external forces were triggering his anger. He agreed that while that was happening, he was in a position to observe everything that had happened as he had explained in his testimony.
48. In further Cross Examination on whether at the time he attacked the deceased, he did not know that the stick would

kill her, **DW** stated that he did not think that he would kill her. He did not agree with the assertion that he thought that the stick was just massaging the deceased. Pressed further on why he did not hit the deceased on her leg instead of the head if he did not know that the stick would kill her, **DW** reiterated his explanation that there were some forces just telling him to hit her. He denied the assertion that the forces were telling him to hit her on the head and not on the legs. Pressed further that he just did it purposefully and not because of the forces, he stated that when it all started, it's like there were confusing things.

49. Asked on how he was able to tell that it was like madness he was going through, he stated that he could stay at home during the day and was just wondering in the hills and in the night, he could be on the mountains and return in the morning. That he could hear voices of people talking.
50. On the question whether he would refuse if someone said he had killed other people, **DW's** response was that he was just wondering about and that moving in the mountains started before he be beat up the deceased as he is able to know other things. When it was put to him that even when be beat the deceased, he knew that he would kill her, **DW** maintained that he did not know. **DW** responded that after hitting the deceased she said nothing and as she was lying down, what came into his mind was to remove the blood with the hole and bury it in the ground. When asked whether he buried the blood so that people do not know he responded in the negative. He was able to think that animals like dogs can not tell whether the blood is for a person or something else.

## **SUBMISSION**

51. At the conclusion of the Defence case on 4<sup>th</sup> April, 2024, Parties indicated their desire to file written submissions. Accordingly, I directed that the Defence files Submissions by 18<sup>th</sup> April, 2025 while the State was allowed up to 25<sup>th</sup> April, 2025 to file theirs.
52. The Defence complied and filed Submissions on behalf of the accused on 15<sup>th</sup> April, 2025. As of the date of writing this Judgment, no Submissions had been filed by the State and I accordingly proceeded without these.

## **CONSIDERATION AND DECISION OF THIS COURT**

53. I have considered the evidence of the Parties and the Submissions of Learned Counsel on behalf of the accused for which I am grateful. The Submissions will not be reproduced but referred to where necessary.
54. The evidence of **PW4** who is a 14 year old boy and son of the accused was clear that on the material day, he was sleeping in the house when he heard noise outside which prompted him to go and see what was happening. That when he came out, he saw his auntie (the “deceased”) lying on the ground while the accused was standing holding a stick in his hands.
55. The accused in his testimony stated that on the material day, the deceased had gone to his house in relation to a discussion about the accused’s wife who he had quarreled with. The accused and the deceased did not agree on the same following which the accused informed the deceased that they should leave the discussion for some other time as he was not feeling well. According to the accused, the

deceased continued talking about the matter after which he told her that he did not want to talk about the matter and then he started beating the deceased with a stick on her head and she started bleeding.

56. It is evident that both the testimony of **PW4** and the accused are consistent with respect to what led the deceased to start bleeding before she was taken to Katuba Clinic, by among others, **PW2** and **PW3** where the deceased was pronounced dead on arrival.
57. According to the summary and opinion of the Medical Report admitted into evidence as **P2**, the deceased died on her way to the hospital. That autopsy showed a subgael hemorrhage with bilateral subdural hemorrhage. The cause of death was Blunt Impact Trauma to the Head and the manner of death was Homicide. This leads me to the conclusion that element of *actus reus* in the ingredients for the charge of Murder has been satisfied.
58. I now proceed to determine the element of *mens rea*. The Defence has submitted that the accused was subjected to Medical Examination to determine his state of mind at the time of the alleged offence. The case of **Mbomena Moola v The People**<sup>2</sup> was called in aid where the Supreme Court held that:

***“Where there is evidence supporting a defence not raised by the accused, that defence must be considered by the Court”.***

The Defence further adverted to the defence of diminished responsibility under **Section 12A** of the **Penal Code Chapter 87** of the **Laws of Zambia**.

59. Evidence has indeed been placed before me regarding the accused's state of mind at the time of commission of the offence and at the time of taking plea in accordance with **Section 17** of the **Criminal Procedure Code Chapter 88** of the **Laws of Zambia**. The Medical Report dated 9<sup>th</sup> September, 2024 was ordered by the Court sitting earlier at Lusaka. The Medical Report by the Consultant Psychiatrist is couched as follows on the salient aspects:

***“a. Medical Report on Jonathan Chifulu***

*This is to certify that as ordered by the High Court sitting at Lusaka, I have examined **JONATHAN CHIFULU** in terms of **Section 17** of the **Criminal Procedure Code** in order to ascertain his mental state at the time of the alleged offence and his current mental state. While writing the Report I had with me a Warn and Caution Statement, Depositions of Witnesses, Subjective History from Jonathan, Physical and Mental State Examinations, Laboratory Investigations and Nurse's Ward Observation. It would have been helpful if I had collateral history from parents/relative or significant others regarding his social functioning and more specifically how he related with members of his family and relevant others in the community.*

**b. Presentation on Admission**

*Jonathan was admitted at Chainama East on 5<sup>th</sup> June, 2024, for the purpose of Medical Report following a charge of **Murder** Contrary to **Section 200** of the **Penal Code Chapter 87** of the **Laws of Zambia**. On admission, he was clinically depressed, felt low in his mood, hopeless about the future, had poor appetite and hardly slept. He also felt that life was not worth living.*

**c. Executive Summary**

***JONATHAN** was charged with **Murder** in a High Court sitting in Lusaka. He is aware that he was so charged and said, "They may do what they want to do" referring to the Court, a sign of hopelessness and helplessness. The background is that **JONATHAN** was diagnosed Bipolar Co-Mobid with substance use Disorder in August, 2023, at Chinama Hills Hospital and was treated accordingly but was non-compliant to reviews and medication hence the relapse.*

*On admission at Chainama East Correctional, he was clearly severely clinically depressed with suicidal ideas. He was commenced on Amitriptyline 100mg at night and improvement was evident after two (2) weeks.*

***JONATHAN** will need continued reviews to detect changes of the mood (poles) early in order to institute appropriate medication.*

**d. Forensic History**

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At the interview at Chainama East Correctional, Jonathan said "I quarreled with my elder sister. She wanted my wife to come back home, I refused. I always thought that my wife interfered with my food, but I had no proof".

**e. Past Medical/Psychiatric History**

On 19<sup>th</sup> August, 2022, **JONATHAN** was referred to Chainama Hills Hospital following Deliberate Self Harm (Attempted Suicide) using fertilizer. He was seen on 22<sup>nd</sup> August, 2023, and the diagnosis of Bipolar Mood Disorder with Alcohol use Disorder was made. He was treated accordingly. He was reviewed on 5<sup>th</sup> September, 2023. Medication for two (2) months Bipolar was given and he was told to be reviewed on 28<sup>th</sup> November, 2023. He did not turn up for the review and had not been seen since until after committing the alleged crime.

**f. Family History**

**JONATHAN** was born in 1976. He appears to have had a normal childhood and adolescent development although as a baby, he says something, probably some pollen, fell into his eyes as his mother was passing through a field. He says he has some vision difficulties up to now.

**JONATHAN** started school at an early age but stopped in grade 7 due to lack of sponsorship. As he grew older, he was engaged in subsistent farming and carpentry. He married in 1996 and has eight (8) children aged between 24 and 7 years. He separated with his wife

because he suspected that she was poisoning him through food.

**JONATHAN** started drinking at the age of 17 in increasing amounts and frequency and also used cannabis both of which are likely to have induced psychotic symptoms and signs as seen in Bipolar Disorder. From time to time, he assembles with Catholics.

**g. Physical Examination**

**JONATHAN** was physically healthy. He was clinically not pale nor jaundiced. The pulse abdomen was soft and more tender with no organomegaly. Neurological examination was normal.

**h. Mental State**

Repeated Mental State Examinations revealed evidence of a depressive state. He was calm and communicable but speech was slow with a low tone and volume. He had poor eye contact and had a depressed face. He felt low in mood with suicidal ideas. He denied perceptual disorders but was paranoid, felt that his wife could poison him if he lived with her. He was well oriented to time and space but his concentration was poor leading to poor recent memory. He had reduced insight.

**i. Observation on the Ward**

**JONATHAN** did pose some management issues as appetite was observed to be poor and he was not interacting with other inmates.

Medication, anti-depressant was commenced and he showed some improvement after two (2) weeks. Further improvement is expected. He is currently on Amitrptylene 100mg at night.

**j. Conclusion**

On the basis of the above information, observations and findings, **JONATHAN CHIFULU** has **BIPOLAR MOOD DISORDER**. This disorder waxes and wanes and presents with depression and manic features alternatively. CO-Mopid use of substance (Alcohol and Cannabis) is common. There is history that **JONATHAN** had been treated for the above Disorder at Chainama Hills Hospital and did not comply with reviews and medication, hence the relapse. Significantly there is strong family history of Mental Health problems.

It is my opinion that **JONATHAN** had the above Disorder at the time of the alleged offence. He has been treated for the pole, he was is in (depression) but residual symptoms may be present at the time of Court hearing. However, currently he is well enough to make a plea, stand trial and follow proceedings of the Court”.

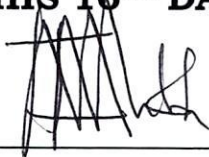
60. On my review of the evidence of **PW2**, who is the younger sister to the deceased, I have established that when she was called to the scene by **PW4** (their nephew and son to the accused) she found the accused pacing up and down and looking like he was not himself. That she did not talk to the accused as she was scared at the way he was looking. In

Cross Examination, **PW3** stated that the accused had a heart problem which used to cause anger in him. She confirmed that there was a Medical Report from Chainama Hospital which showed that the accused was a patient there at one time.

61. On the basis of the testimonies of **PW2**, **PW3**, **PW4** and **PW5** who was the Arresting Officer and had custody of the broken stick, Medical Report and the hoe tendered into evidence as **P1**, **P2** and **P3** respectively, I am left with no doubt that the facts of this case justify the Conviction of the accused for the offence of **Murder** contrary to **Section 200** of the **Criminal Procedure Code**.
62. I have also found, from the Medical Report by the Consultant Psychiatrist, that the accused had Bipolar Mood Disorder at the time he caused the death of the deceased. This confirms the evidence of **PW2** and **PW3**, the sisters to the accused, who described how the accused did not look himself when they were called to the scene not long after the tragic incident.
63. In view of my finding, I Order that the accused shall be detained during the President's Pleasure at the Chainama Hills Hospital. I am fortified in taking this position by the case of **The People v Richard Mwanza**<sup>3</sup> where the question was decided whether the accused at the time of commission of the alleged offence was afflicted mentally so as not to be responsible for his actions. The principles governing such matters were discussed at length in this matter extensively citing the case of **Mbaye v The People**<sup>4</sup> whose general guidance on the subject I also find very instructive.

64. The Convict is informed of his right to Appeal if not satisfied with my decision.

**DATED AT LUSAKA THIS 16<sup>TH</sup> DAY OF MAY, 2025.**

A handwritten signature in black ink, appearing to be 'I. M. Mabbolobolo', written over a horizontal line.

**I. M. MABBOLOBOLO  
HIGH COURT JUDGE.**