

## TIMOTHY WAKANABA

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v.

## REGINAM

[COURT OF APPEAL, 1962 (Hammett P., Marsack J. A., Knox-Mawer J. A.), 12th, 23rd February]

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## Criminal Jurisdiction

*Criminal law—sentence—manslaughter—severe provocation—reduction of sentence.*

The appellant, provoked by his wife's conduct in unwarrantably beating their child, struck her one severe blow with a bamboo stick. One rib was fractured and punctured her spleen, which was enlarged, and her death ensued. In reducing to twelve months the sentence of two year's imprisonment passed upon the appellant for manslaughter, the Court of Appeal considered that it was proper to give greater weight to the severe provocation received, the appellant's previous good character and subsequent behaviour.

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Appeal against sentence for manslaughter imposed by the Supreme Court.

A. Lateef for the appellant.

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K. C. Gajadhar for the respondent.

The facts appear from the judgment of the court.

Judgment of the Court: [23rd February, 1962]—

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The appellant was convicted on his plea of guilty to a charge of manslaughter in respect of his wife and sentenced to two year's imprisonment. He now appeals against sentence.

The circumstances giving rise to the charge were that at 10.00 p.m. on 12th August, 1961, the appellant, a young man aged about 30, was in his house with his wife and their 18 months old child. A woman named Naome was also present. The deceased asked her husband for some tobacco and he replied that he had none. The deceased became angry and in her anger dropped her child to the ground and beat him, and then took him outside where the sound of further beating was heard. The accused went out and picked up a bamboo stick and hit his wife with it once by way of chastisement for her behaviour. He must have used considerable force, for this one blow broke one of her ribs. Unknown to the accused, his wife had an enlarged spleen which was punctured by the fractured rib and

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A this was the cause of her almost immediate death, according to the post mortem examination report. The accused went at once to the headman and reported what had happened, and made a full and frank confession to the Police who were called to the scene.

We feel that it would be proper to give greater weight to the severe provocation which the accused received, his previous good character and his subsequent behaviour.

B In these circumstances, we allow the appeal and quash the sentence passed and in substitution therefor pass sentence of 12 months' imprisonment.

*Appeal allowed.*