

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

REVIEW CASE NO.77/93

In the matter of:

R E X

VS

1. MGWADLAZA MADONSELA
2. MKOPANE CHRISTINA MADONSELA

ORDER ON REVIEW

18 August 1993

DUNN J.

The two accused who are husband and wife, were charged with and convicted of assault with intent to do grievous bodily harm by the Magistrate, Piggs Peak. Accused no.1 (the husband) was sentenced as follows -

Two years imprisonment. Half the sentence is suspended for a period of two years on condition that accused is not convicted of an offence whose element includes assault during the period of suspension.

Accused no.2 was also sentenced to two years imprisonment. The whole of her sentence was suspended for 2 years on the same condition as accused no.1.

The conviction of the two accused is in order. They carried out a vicious attack with an axe and a grass-slasher on the complainant who is accused no.1's brother. The conviction of each accused is hereby confirmed.


In so far as the sentence is concerned the condition of suspension as framed is objectionable on the grounds that the suspended sentence may be brought into operation upon  
/conviction...

conviction for an offence committed prior to the period of suspension. One of the objects of a suspended sentence is to ensure future good behaviour. It is not permissible, in the circumstances, to bring a suspended sentence into operation upon conviction for an offence committed before the commencement of the period of suspension. The condition of suspension on each accused is altered to read -

On condition that the accused is not convicted of any offence of which violence to the person of another is an element, committed during the period of suspension.

Magistrates should familiarise themselves with the numerous Review orders in which the very point that has arisen in this case has been dealt with.

The accused are to be brought before the magistrate, Piggs Peak, to have the effect of this Order explained to them and for accused no.1's committal warrant to be amended accordingly.

  
B. DUNN  
JUDGE