

IN THE HIGH COURT OF SWAZILAND

CRIMINAL TRIAL NO.193/95

In the matter between:

REX

VS

THABSILE LUNGILE MLAMBO

FOR THE CORAM : J.M. MATSEBULA

FOR THE CROWN : MISS S. NDERI

FOR THE DEFENCE : MR. B.J. SIMELANE

JUDGEMENT

15/05/96

You have been charged with the crime of murder and when you were asked to plead you pleaded that you did not have the intention of killing the deceased. Thereupon Mr. Simelane who is representing you stated that you gave him instructions that you are pleading guilty to culpable homicide.

The Crown has now outlined the events leading up to the injury and the death of the deceased. The Crown told the court that you were extremely provoked by the deceased in this case in that you had been aware for sometime of the illicit affair the deceased was having with your husband and you tried to terminate it. On one occasion you went to a certain place on the 13th August 1995 where the deceased your husband and others were drinking. You then

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noticed that the deceased was wearing your husband s jacket but when you confronted the deceased about it she responded in a very insulting language she even said that she would show you in that that particular evening she would go to your house and sleep with your husband there. You then left and went to your house leaving your husband and the deceased behind. At about 7pm your husband and the deceased arrived at your homestead. When you confronted the deceased trying to find out what she wanted at your homestead she again stated that she had come there to sleep with your husband.

This was at your homestead and the facts are that you then picked up an okapi knife and stabbed the deceased once. She died as a result of the stab wound inflicted by you. Then you were arrested on the 13th August 1995. The deceased was taken to the mortuary or to hospital where a post-mortem was conducted and it was found that she had died as a result of the stab wound.

These are the facts and the court looks at the facts not from an arm-chair-type of-attitude but from a point of view in which the court would have found itself where it in your shoes. The court can only say even the plea of guilty to culpable homicide is too much for you if one takes into account what the deceased was doing to you but because she lost her life and the law says you should not kill another

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person and; she was not attacking you the court would say the plea of guilty to culpable homicide is justifiable. The court agrees with the Crown in accepting the plea of guilty to culpable homicide and also Mr. Simelane in accepting your instructions to a plead of guilty to culpable homicide and the court finds you guilty to culpable homicide.

You are accordingly found guilty of culpable homicide as pleaded.

J.M. MATSEBULA

JUDGE