

IN THE HIGH COURT OF SWAZILAND

Cr. Case No. 85/95

In the matter between:

THE KING

vs

SICELO MATSEBULA

CORAM: S.W. Sapire A.C.J.

FOR THE CROWN Mr. Sibandze

FOR THE DEFENDANT Mr. T. Nkambule

Judgment

(18/6/96)

You, the accused are charged with murder. The evidence against you linking you with the offence is purely that of Elizabeth Mngomezulu.

She apparently lived with the deceased as man and wife and she told the court that one evening she and her husband were in bed and in the course of the night one early morning, you entered the room and without a word stabbed the deceased three times on the chest. Conveniently for the killer, the deceased was sleeping on his back facing up. After stabbing the deceased, the accused took hold of Elizabeth herself, pulled her out of the house threatening to kill because she was going to identify him as the killer.

2

It is not clear why he did not kill her there and then with the same spear he had in his hand. Why he should choose such a bizarre way of killing her by throwing her into a toilet.

She also does not explain why when he had this intent to kill her in order to protect himself, he suddenly in the middle of everything hesitated, let her go and proceeded to urinate against the lavatory door. At the same time he dropped the spear on the ground. She was thus able to free herself and ran away to a neighbour.

Even more curious is having escaped and the man having run away, Elizabeth did not go to see how her husband was. She did not go to seek medical assistance and she sat the whole night waiting to make a report.

The story is so extraordinary that I and my two assessors have agreed that we have to entertain a doubt and in fact more than a doubt as to whether this is the correct version as to how the deceased met his death. No one in their right sense behaves in the way it is alleged the killer behaved in this matter.

Elizabeth's account is not consistent with one's experience of human conduct. You have denied that you are the person involved. You said you were not on the scene. There is nothing apart from

Elizabeth's word to connect you with the offence and this court cannot on her evidence alone find that you were the person who killed the deceased.

You are accordingly found not guilty and discharged.

S.W. SAPIRE

ACTING CHIEF JUSTICE