

IN THE HIGH COURT OF SWAZILAND

CRIM. CASE NO. 113/96

IN THE MATTER BETWEEN

REX

VS

THABISO MTHANDE

SANDILE MTHANDE

CORAM S.B. MAPHALALA - A J

FOR CROWN MR N.M. MASEKO

FOR DEFENCE MISS S. NDERI

SENTENCE

(29/07/97)

I have taken into consideration all your personal circumstances as submitted by your attorney Mr Maseko. That accused no. 1 is a twenty-one old. Accused no. 2 is twenty years old. That the time of the commission of the offence accused no. 1 was twenty years old, and accused no. 2 was nineteen old. Your attorney submitted that the court should take into consideration your youthfulness and the fact that a sentence to imprisonment will expose you to hardened criminals. That you were remorseful in that you pleaded guilty to a lesser offence that of culpable homicide. That this greatly curtailed these proceedings. That also you have been in custody for eleven months and that there was no intention on your part to kill the deceased.

Mr Maseko further submitted that your parents are intending to meet the deceased parent's at the chief's kraal and talk about this incident. He further submitted that you intended to apprehend the deceased and did not intend to kill him. He went on to say that you are both gainfully employed, accused no. 1 as a computer repairer and accused no. 2 as a student teacher and that you both have minor children to support, and that you are first offenders which showed that you have led a clean and unblemished life.

Mr Maseko urged the court to impose a wholly suspended sentence in view of the circumstances of this case. He urged the court to look at your conduct at the time, when the incident took place. That you both listened to your brother who came to the scene and ordered you to stop assaulting the deceased. You further took the deceased out of the

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water and you made fire for him, and you later reported the matter to the chief's kraal and it was subsequently reported to the police, and further more your actions when the police came showed that you were co-operative that you gave the police all the exhibits in this case.

I have considered all these factors and I agree with your attorney that this was a very unfortunate saga in your life, as you did not intend to kill the deceased. The stigma of having killed another human being will always be with you as long as you live. However, the court should not lose sight of the fact that a life has been lost in this case. Cases of this nature are on the increase, the courts are to be seen to be doing justice in these cases. It is my view that a partly suspended sentence would be appropriate in your case, to satisfy societal expectations, and also to show the courts respect for the sanctity of life. You have

already served eleven months imprisonment which is punishment in itself.

In the circumstances of this case I will sentence each of you to six years imprisonment, and I am going to suspend four years of which I suspended for the period of three years on condition that you are not convicted of an offence in which violence is an element committed during the period of suspension. Your sentence is backdated to the 9th September, 1996.

S. B. MAPHALALA

ACTING JUDGE