

CRIM. CASE NO. 51/97

IN THE MATTER BETWEEN

REX

VS

ENOCK MSONGELWA HLATSHWAKO

**CORAM
FOR CROWN
FOR DEFENCE**

**S.B. MAPHALALA – J
MR NSIBANDZE
MR MASUKU**

**SENTENCE
(24/08/98)**

I have taken your personal circumstances into consideration in arriving at proper sentence in your case. That you are at the time you were arrested for this offence you were residing with your common law wife. That you have three minor children together. Also I have taken into consideration that as Mr. Masuku has said that you are remorseful for what befell you. I have also taken into consideration that you have been in custody for at least nineteen months now, which is quite a long time. However, I must say that what you have done is a very serious offence. To me when I look at these previous convictions that you have, it shows that you are a man with a violent streak.

In 1980 - 1981 you were convicted by the Swazi Court in Nhlangano for fighting in a public place. Two years later you were sentenced by the Swazi Court in Bhunya for assault with intent to do grievous bodily harm, and you were sentenced to six months imprisonment. To me these indicate that you are a man who thinks that violence is the solution to solving problems. In this present instance you solve your problems by using a sjambok after a sjambok you used a knife. You must count yourself lucky that the court only found you guilty in respect of culpable homicide, because if this court have found you guilty in respect of murder it would be another story altogether now. In that instance in the absence of extenuating circumstances you would be facing the noose.

However, I have weighed all your personal circumstances together with the interest of society and also the gravity of the offence, and I feel that the nineteen months that you have been in custody is a punishment in itself. They might have given you sometime to reflect on what brought you there, and you are going to go out a better person than you were.

I am going to suspend a substantial portion of your sentence, believing that the suspended sentence is going to have a deterrent effect on you, especially to curb your violent temper. I am going to sentence you to six years imprisonment, five years of which are suspended for a 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, and the sentence is backdated to the 19th January, 1997.

S.B. MAPHALALA
JUDGE