

IN THE HIGH COURT OF SWAZILAND

IN THE MATTER BETWEEN

: CRIM. CASE NO. 144/98

REX

Vs

RUEBEN SILINDZA

CORAM : MATSEBULA J

FOR THE CROWN ; MR. M. NSIBANDZE

FOR THE ACCUSED : MR. G. MASUKU

JUDGEMENT

26/04/99

You have been convicted of culpable homicide not murder. It is a lesser crime and the sentence is also less severe than in murder but all the same you killed a human being and you should be dealt with accordingly. There is also a factor of your age and I have asked your counsel to find out some authority dealing with a person who commits a serious crime at the age of 16.

JUDGEMENT ON SENTENCE

You have been convicted of a very serious crime notwithstanding that it has been reduced to culpable homicide and accepted by the Crown as such. It is serious in the sense that

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you have taken a life of a human being and the Court views such cases in a very serious light. I have listened to Mr. Masuku on your behalf and Mr. Nsibandze has also been very helpful. He has told the Court that your parents have sent a word to him that you should be treated leniently because of your age.

I have taken into account as pointed out by Mr. Masuku, correctly in my view, that you committed this crime while you were still a juvenile. Also, the fact that you were not just a person who was loafing about but you were in gainful employment and in that way you were contributing to the peace and stability of this country. And the fact that the person you killed is your relative will, according to human experience live with you for the rest of your life. Mr. Masuku told the court that you are very remorseful of what you did. I do not know to what extent should I take into account that you were under the influence of liquor because that helps you in so far as the intention is concerned. I have also taken into account that the deceased was not an innocent person in this matter but nevertheless you have killed him. He left his wife and possibly some dependants and you are not going to be in a position to assist them financially or otherwise.

This Court has time and again, warned people especially of your age never to carry knives when they are going to drink and that when there is a quarrel they should never resort to knives. There is absolutely nothing wrong with young people fighting with their clenched fists or as it used to happen, with sticks. That is generally accepted practice especially in Swaziland. The use of knives is so rapid that it is high time people who use knives to kill others are not treated leniently.

Although I have taken all these factors in your favour I have a duty as a Court to pass a sentence that will send a clear message to other people who might be tempted to use knives. If they do, they should know that they would never get a wholly suspended sentence notwithstanding other mitigating factors. But as we always say, each case is

treated on its own merit and similarly in your particular case the Court will treat it likewise.

Having considered all these factors the Court feels the following sentence will be an appropriate one:

"You will be sentenced for an imprisonment for five (5) years, three (3) of which will be suspended for a period of 3 (three) years on condition that you do not commit any offence of which violence is an element for which you will be sentenced to an imprisonment without an option of a fine, committed during the period of suspension. The sentence will be backdated to 26th March 1998."

J. M. MATSEBULA

JUDGE