

THE HIGH COURT OF SWAZILAND

REX

Vs

Skhombiso Mkhathshwa

Cri. Trial No. 60/1999

CORAM

SAPIRE, CJ

For Crown

Mrs. M. Dlamini

For Defence

Mr. M. Mahlalela

JUDGMENT (25/10/99)

Sentence

The accused has been found guilty of murder on a plea of guilty. Matricide is perhaps one of the worst forms of murder. The victim is someone to whom the perpetrator is bound by a lifelong duty of love and respect. Nevertheless there are in this case factors which extenuate the offence

The accused's father died some time ago, since when there has been a nasty relationship between the accused and the mother from that time. The accused blamed his mother for his father's death and believed that she exercised some evil influence over him.

I have not been told whether this belief in witchcraft prescribes the solution according to local Swazi custom. There is nothing to indicate that the Swazi law regarded the killing of a person, especially his mother, as extenuating because she was believed to be a witch. The test I must apply is a subjective test and it seems to be accepted that this belief can be treated as a factor in some way explaining and excusing the accused in otherwise an inexcusable action. I find that extenuating factors do exist.

I have given careful consideration to the circumstances in which this offence was committed and it is not possible to impose anything other than a long custodial sentence on the accused. Where a person has deliberately killed another person for what amounts objectively to very trivial reasons in fact he cannot expect to be sent back to society in the near future.

Although this offence, involving as it does, the killing by the accused of his own mother, is particularly heinous, there are also mitigating factors.

I accept that his counsel has said that he is remorseful. There is some indication of this in the attitude shown by the accused to the commission by him of his crime. Important is that he has pleaded guilty. Implicit in this is an appreciation by him that he is done wrong and a willingness to accept his punishment.

I take into account his remorsefulness without which the sentence would be considerably longer period of imprisonment than that which I am about to impose. I take into account that he is a relatively young man but not so youthful as to not appreciate the seriousness of what he has done.

The accused will be imprisoned for 12 (twelve) years.

S. W. SAPIRE, CJ