

**CRIM. CASE NO. 112/97**

In the matter between

**REX**

And

**NOMSA PHAYA DLAMINI**

Coram  
For the Crown  
For the Defence

S.B. MAPHALALA – J  
MRS. M. DLAMINI  
MR. MDLULI

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**JUDGEMENT**  
**(28/01/99)**

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Maphalala J:

You are charge with the crime of culpable homicide. The crown alleges that upon or about the 11<sup>th</sup> August 1997 at or near Mzipha area in the district of Shiselweni you did unlawfully and wrongfully kill Mbongeni Dlamini. You pleaded guilty to this offence. Your attorney Mr. Mdluli confirmed the plea and the crown also confirmed the plea. The crown then read into the record the statement of agreed facts. In the circumstances I then find you guilty in respect of the crime of culpable homicide.

**SENTENCE**

First of all I must state that this is a very tragic case, where you brother had to die in your hands and this event will always be with you for the rest of your life and that in itself some form of punishment. Also you will also be known in your community as a person who killed another human being. From your society people will always point behind your back and refer you as a killer that also in itself is punishment.

I have taken into consideration in arriving at a proper sentence in the submissions that were made by your attorney Mr. Mdluli and also the evidence that was deposed by your mother who gave evidence under oath. I have been told that you have got an unblemished record in the sense that you are a first offender. This is the first time for you to appear in court for this unfortunate event in your life. I have also taken into consideration that it appears from the evidence of your mother that you are the sole breadwinner not only of your parents, but also of your siblings. I do not think that

sending you to prison will serve any meaningful purpose.

In the circumstances I agree with Mr. Mdluli that a wholly suspended sentence will be appropriate in your circumstances. I am going to sentence you to five (5) years imprisonment, the whole sentence I am going to suspend for a period of three (3) years on condition that you are not convicted of an offence in which violence is an element committed during period of suspension.

**S.B.MAPHALALA**  
**JUDGE**