



**THE HIGH COURT OF SWAZILAND**

**CRIM. CASE NO. 32/99**

In the matter between

**REX**

Vs

**AMOS MOSES MASANGO  
EMMANUEL ALPHEUS NDELANE**

Coram  
For the Crown  
For the Defence

S.B. MAPHALALA – J  
MR. T. MASINA  
MR. SIGWANE

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**JUDGMENT  
(09/08/2001)**

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You were charged with one Amos Moses Masango. The said Amos Moses Masango was charged with the crime of rape, and it was alleged by the crown in that on divers occasions during the months of April and May 1998, and at or near Bulembu area in the Hhohho district, the said accused person did unlawfully and intentionally have sexual intercourse with N a female juvenile of 13 years without her consent and did thereby committing the crime of rape.

Alternatively Amos Masango was also charges of contravening Section 3 (1) of the Girls and Women's Protection Act 39/1920.

You are charged with a crime of assault with intent to cause grievous bodily harm. In

that on divers occasions in the year of 1998, you did unlawfully and intentionally assault N by beating her with a sjambok and belt all over her body with the intention of causing her grievous bodily harm.

You both pleaded not guilty to these charges and the crown called the evidence of five witnesses. From that time this case was postponed for quite a number of times, and in the interim accused no. 1 died in custody. Today Mr. Masina for the crown closed the crown's case and your attorney Mr. Sigwane applied for your discharge in terms of ***Section 174 (4) of the Criminal Procedure and Evidence Act (as amended)***. That this is a clear case of chastisement of a father chastising his own daughter and it has not been shown that you exceeded the bounds of such chastisement. Mr. Masina for the crown conceded to the submissions made by your attorney Mr. Sigwane.

In the circumstances, you are discharged in terms of ***Section 174 (4) of the Criminal Procedure and Evidence Act***.

**S.B. MAPHALALA**

**JUDGE**