

CRIM. CASE NO. 1/2000

In the matter between

REX

And

JOHN KHALENI MAZIYA

Coram

S.B. MAPHALALA – J

For the Crown

Ms N. Lukhele

For the Defence

Mr. Dlamini

SENTENCE**(15/08/2001)**

This is a very tragic case of a parent who tries to chastise his child with fatal consequences. The complainant in Count two is his niece and the deceased was her boyfriend.

The circumstances of the matter is that the accused on the fateful day wanted to send his niece (complainant in count 2) on a errand but was told that she was not in the homestead, but in another homestead. He proceeded to that homestead and found the deceased and his niece together in a room in circumstances suggesting that they have sexual intercourse as lovers. The accused on seeing this was seized with rage as a parent and started beating the two with a sjambok he was carrying at the time. The two were later taken to hospital where the deceased died the following day. The accused told the court that he was so infuriated on seeing the two together like that because he paid all the school fees for the girl who was 14 years old at the time.

The court was told in mitigation that the accused was the guardian to his brother's children. The brother was unable to support his children as he was injured in a car accident in 1999 and had asked his brother to assist him raise his five children.

The court was further told that the accused paid all the funeral expenses for the deceased and the two families seem to have forgiven each other on this tragic occurrence.

I have taken all the circumstances of this case into consideration and my considered view is that a custodial sentence would not serve any useful purpose. The accused has shown great remorse in that he has pleaded guilty to the charges and he helped the family of the deceased with funeral expenses. He is a first offender and was in custody for three months before he was granted bail. Above all the accused has killed another human being and this fact will always haunt him for the rest of his life and that in itself is punishment. I have taken both Counts as one for purposes of sentence as these constituted a single transaction.

The accused is sentenced to 7 years imprisonment. The whole sentence is suspended for a period of three years on condition that the accused is not convicted of an offence in which violence is an element committed during the period of suspension.

S.B. MAPHALALA

JUDGE