

IN THE HIGH COURT OF SWAZILAND

CRIM. CASE NO. 54/03

REX

AND

SICHEME VILAKATI

Coram

K.P. NKAMBULE

FOR CROWN
FOR ACCUSED

N. MABUZA IN
PERSON

SENTENCE 16/9/04

The accused, Sicheme Vilakati, was indicted before this court on a charge of murder. It was alleged that he is guilty of the crime of murder.

"In that upon or about 23rd November 2001 and at or near Ntonalози area, in the district of Manzini, the said Sicheme Vilakati did unlawfully and intentionally kill Mandokweni Enock Dlamini."

The accused pleaded not guilty to murder but guilty to a lesser charge of assault with intent to cause grievous bodily harm. The crown produced a statement of agreed facts after the crown counsel had accepted the plea. The statement reads as follows:

"It has been agreed that on the 24th November 2001 the accused and the deceased (70 years of age) were drinking traditional brew with other people at the homestead of Mphikeleli Dlamini of Ntondozi Area.

Whilst still drinking, it started raining whereafter all the attendants at the said Mphikeleli Dlamini's homestead proceeded to a hut. The accused and the deceased after some time met outside the hut whereupon the deceased threatened the accused with lightening, saying that he (the accused) will follow his father who had since died.

The accused and the deceased went back into the hut whereupon the deceased repeated the death threats against the accused. The accused got angry and thereafter punched the deceased several times on the face whereupon the deceased fell down. He was kicked all over the body. The deceased was then taken to hospital where he was attended to and discharged. He died on the 26th November due to complications of multiple injuries."

The court found the accused guilty of assault with intent to cause grievous bodily harm. The sentence was reserved. Today it is time to deliver the sentence.

Accused has been convicted of assault with intent to cause grievous bodily harm. This is a serious offence. The offence was committed to an old man of seventy years who could not inflict harm to accused who is well built and strong.

Taking into account circumstances surrounding the commission of this offence it is clear that the accused was verbally abused by the old man. I however, take into account that the accused was a much younger person than the deceased. He needed to show some respect. Any sentence passed will have to reflect the interest of the Swazi Society in ensuring that the citizens of this country are protected from violence. I will also take it into account that the accused is a first offender and that he has been in custody since November 2001. It seems to me that an appropriate sentence will be five years of imprisonment. Two years of which is suspended for three years on condition that the accused is not found guilty of an offence whose element includes violence, committed during the period of suspension. Sentence is backdated to November 2001, the date of arrest.

A handwritten signature in black ink, appearing to be the name 'K. M. L.' or similar, written in a cursive style.

JUDGE