

THE HIGH COURT OF SWAZILAND

REX

Vs

MTHABISENG BONGIWE NYONI

Criminal Case No. 68/2004

Coram

S.B. MAPHALALA – J

For the Crown

MR. FAKUDZE

For the Accused

MRS E.T. MABUZA

Social Welfare Officer in loco parentis

SENTENCE (24/05/2004)

You have been charged with the crime of murder in that upon or about the 31st August 2003, and at or near Mantenga area in the Hhohho region, you wrongfully and unlawfully killed Dion Vermaak,

I have already found you guilty of the crime of culpable homicide in this case. What remains for me is to impose a sentence which would be appropriate in the circumstances of the accused person, and also one which meets the expectations of the society. Before doing that I wish to commend the Social Welfare Officer who is in loco parentis for the accused for a job well done. Mrs Mabuza has made very helpful submissions in mitigation of sentence for the accused person.

This is a very sad case where a mother has killed her own child in these circumstances. The mother was 16years at the time of the occurrence of the offence and was also a child herself. This incidence will haunt her for the rest of her life and this would be a punishment in itself. The society would also label her a killer and this unsavoury stigma will be with her for a very long time. This would also be a punishment in itself.

The accused is a juvenile, who was adopted by her step-parents and left school at Standard V because her parents could not afford to take her further. The circumstances leading to the death of the child also show that she was disturbed. In mitigation the accused has apologised to the whole nation for what she has done and also for insulting her step-parents in this way.

I have taken all these factors into consideration and I am of the considered view that a suspended sentence would be appropriate in the case of the accused. The accused has already served a number of months in custody and in my view she must have learnt a lesson.

In the circumstances of the accused I sentence her to 5 years imprisonment and the whole sentence is suspended for a period of 3 years on condition that the accused is not convicted of an offence in which violence is an element committed during the suspension.

S.BMAPHALALA

JUDGE