

THE HIGH COURT OF SWAZILAND

REX

Vs

SIKHUMBUZO MDLOVU

Criminal Case No. 198/2004

Coram :S.B. MAPHALALA - J

For the Crown: MR. FAKUDZE

For the Defence : MR. B. SIMELANE

REASONS FOR SENTENCE

(20<sup>th</sup> April 2005)

[1] The accused person has been convicted of the lesser offence of culpable homicide after being arraigned for the crime of murder where the Crown had alleged that upon or about 24<sup>th</sup> December 2003, and at or near Madonsa are in the district of Manzini, the accused did unlawfully and intentionally kill one Thomas Jele.

[2] The Crown accepted accused plea of guilty in respect of the crime of culpable homicide and Mr. Fakudze for the Crown proceeded to read into the record a Statement of Agreed Facts which was confirmed by Mr. Simelane on behalf of the accused person.

[3] Mr. Simelane has advanced a number of points in mitigation of sentence as follows: Firstly, that the accused person was 19 years old when he committed this offence and therefore his youthfulness should be taken into consideration in arriving at a proper sentence; secondly, that the accused is a first offender; thirdly, that at the time of the commission of the offence the accused was a Shop Assistant earning a monthly salary of E500-00; fourthly that the accused person has been in custody since the 24<sup>th</sup> December 2003, and that whatever sentence the court imposes should be backdated to that date. Fifthly, that the accused person by his action was remorseful in what he has done and did not seek to conceal evidence in this case. Mr. Simelane further conceded that this is indeed a very serious offence but that the court ought to look at the circumstances leading to the stabbing. He contends that these young people were in high spirits as it was Christmas eve and had taken some liquor.

[4] I have considered all these factors vis a vis the triad being the nature of the offence; the interest of the accused and the interests of society (see *£ v Zinn* 1969 (2) S.A. 537 (A)). There are far too many cases involving young offenders where people are stabbed in drinking places after they had partook to drinking liquor. Our young people are becoming so angry and violent and this is indeed a worrying trend in our society. In the present case I sentence the accused person to 7 years imprisonment, 3 years of which is suspended for a period of suspension on condition that the accused is not convicted of an offence in which violence is an element committed during the period of suspension. The sentence is backdated to the 24<sup>th</sup> December 2003.

S.B. MAPHALALA

JUDGE