

IN THE HIGH COURT OF SWAZILAND

REX

Vs

VUSI NHLEKO

FREEDOM SEHLONGONYANE

THULANI TREVOR PLAMTNI

Criminal Case No. 148/2005

Coram: S.B. MAPHALALA - J

For the Crown: MR. P. D LAM IN I

For the Defence: MR. S. SIMELANE

REASONS FOR SENTENCE 13th March 2007

[1] It is common cause between the parties that in this case there are extenuating circumstances in favour of the two accused persons and therefore they will escape capital punishment. One of the extenuating factors is that the accused when they committed this offence were under the influence of alcohol. Presently the court is to mete out a proper sentence in the circumstances of the case.

[2] The trite principles of punishment are that at this stage of the proceedings three competing interests arise for the proper balance by the court. The nature of the crime, the interest of society and the interest of the accused. These were stated in the judgment of Jones J at page 480 where the learned Judge stated the following:

"It is now necessary for me to pass sentence, it is proper to bear in mind the chief objectives of criminal punishment namely; retribution, the prevention of crime, the deterrence of criminals and the reformation of an offender. It is also necessary to impose a sentence, which has a disproportionate regard for the nature of the offence, the interest of the offender and the interest of the society.

In weighing these considerations, the court should bear in mind the need firstly to show the understanding and the

compassion for the weaknesses of human beings and the reasons why they serious crimes by avoiding an overly harsh sentence.

Secondly, to demonstrate the outrage of society at the commission of serious crimes by imposing an appropriate and if necessary a severe sentence. Aal see to pass sentence which is balanced, sensible and motivated by some reasons and which therefore meet with the approval of the majority of law-abiding citizen.

If I do not, the administration of justice would not enjoy the confidence and respect of society"

[3] In the present case it was submitted on behalf of the 1 * accused person that firstly, he is 23 years old. Secondly, that he has two minor children. Thirdly, that the mother to these children is not employed. Fourthly, that the accused person is employed at Ngwane Mills earning E620-00 per fortnight. Fifthly, that accused person was responsible for the maintenance of his own mother. Sixthly and lastly, that the accused person has been in custody since the 13th September 2004 and the court was urged to backdate whatever sentence to this date.

[4] As for accused no. 2 it was contended on his behalf firstly, that he is 20 years old. Secondly, that he is employed as a bus conductor of Phangwa Transport and earns a sum of E500-00 per month. Thirdly, it was submitted That he has one minor child who is about 3 years old. Fourthly, that the accused person has been in custody since the 13th September 2004.

[5] I have considered the above-cited factors in mitigation of sentence and the legal principles governing sentencing and also considered the facts of the criminal cases themselves. It is clear and I am sure it is without doubt that the accused person used very dangerous weapons to kill the deceased. It was not a case where the deceased was stabbed once but was stabbed several times as shown in the post mortem report The severity of the wounds as described by the pathologist who compiled the report are so ghastly to even repeat.

[6] In the circumstances of the case I have combined the two counts of murder and robbery as they constitutes one single transaction and each accused person is sentenced to 12 years imprisonment without the option of 2 fine and thai the sentence be backdated to the 13~ September 2004.

S.B. MAPHALALA

JUDGE