

THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

Criminal Trial No. 149/2007

In the matter between

REX

vs

AMBROSE VUSUMUZI GINA Defendant

Coram: BANDA, CJ

For the Crown: Mr. B. Magagula

For the Respondent: In Person

JUDGMENT

[1] The accused was tried by a subordinate court in the District of Lubombo sitting at Siphofaneni on a charge of rape. It was alleged that the accused did unlawfully and intentionally have sexual intercourse with one T B S. He was duly convicted and the matter is before this Court for sentence only.

[2] The facts of the case are not greatly disputed. The accused did not deny that he had sexually assaulted the complainant but contended that there existed, for a long time, a love relationship between them. The complainant conceded that there had, indeed, been this love relationship between them in the past but that it had been terminated when she married her present husband. It would appear that despite this termination of the relationship the

accused continued to claim a right to continue to have sexual relationship with the complainant. There is evidence to show that there had been a violent fight, between the accused and the complainant's present husband, in which the accused had come off the worse for it as he lost two of his front teeth.

[3] This particular rape was committed in circumstances accompanied with aggravating circumstances in that the accused violently broke the door to the complainant's house in order to gain entry into it. It was also committed in humiliating circumstances in that the complainant was sexually attacked in full view of her minor children watching. I have taken into consideration what the accused has said in his mitigation. This was a very serious case in which the accused persistently harassed the complainant over a period of time and she can only be protected against him by imposing on him a custodial sentence. The accused will, therefore, serve a term of imprisonment of 10 years.

Pronounced at the High Court sitting at Mbabane on this 15th day of June 2007.

R.A. BANDA
CHIEF JUSTICE