

THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

Criminal Case No. 182/01

In the matter between

REX

VS

MANDLA MONDI MASEKO

Coram Banda, CJ

For the Crown Mr. Fakudze

For the Accused Mr. Bhembe

JUDGMENT

[1] The accused was charged with the offence of murder. It was alleged that on or about the 18th December 2006 at or near Mbekelweni Area in the Manzini region the accused did unlawfully and intentionally kill one Precious Dlamini. The accused pleaded not guilty to the charge of murder but offered to plead guilty to the lesser offence of culpable

homicide. Mr. Bhembe who appeared for the accused confirmed that the plea of guilty was in accordance with the instructions he had received from the accused.

[2] Mr. Fakudze who appeared for the Crown accepted the plea and a statement of agreed facts was read to the court as part of the Crown case. A postmortem report was by consent made part of the case. The accused was, therefore, found guilty on his own plea of guilty to culpable homicide and was accordingly convicted.

[3] Mr. Bhembe informed the court that the death of the deceased arose from a fight between the two people who were in love and that there was evidence to show that the deceased, too, was assaulting the accused; that no weapon of any kind was used in the fight and that after the fight the two people went home and slept together. It was only in the morning that the accused discovered that the deceased was having difficulties to breathe and later died. The accused raised the alarm and took the deceased to the hospital. The accused expressed deep remorse for what had happened and it would appear that the funeral expenses were met by the accused's family. Mr. Bhembe asked the court to give the accused a chance in life.

[4] I have considered the points of mitigation which Mr. Bhembe has raised on behalf of the accused. Unfortunately these offences are becoming prevalent and it is the duty of the courts to ensure that meaningful sentences are imposed to protect potential victims from the kind of conduct which the accused meted out to the deceased who suffered multiple

injuries. A custodial sentence is appropriate and none of it can be suspended. Accordingly the accused is sentenced to a term of imprisonment of ten (ten) years which will take effect from the 20th December 2006.

R.A. BANDA

CHIEF JUSTICE

Pronounced in open court on this 17th day of August 2007.