

IN THE HIGH COURT OF SWAZILAND

REX

Vs

BHEKI G. SIMELANE

THEMBELA A. SIMELANE

Criminal Case No. 234/2002

Coram: S.B. MAPHALALA – J

For the Crown: Acting Director of Public Prosecutions Mrs. M Dlamini

For the Defence: Advocate L. Maziya (Instructed by L Mamba & Associates)

RULING ON POSTPONEMENT

27th August 2007

[1] The issue before the court concerns the postponement of this criminal case. The Crown contends that the matter should be postponed to the 10 September 2007 before the Chief Justice. On the other hand Counsel for the accused has said that this date is not suitable to him as he has another case on that date. Crown Counsel however, insists that the court ought to postpone this case to that date, irregardless. I have considered all the arguments in this regard and I have come to the view that a party in a criminal case is entitled by the laws in this country to be legally represented in his trial. It would be against the principles of justice to set a trial date for a party who has already told the court that his Counsel will not be available. To do so will be a clear denial of justice. I have also considered that this is a very important case to many complainants who are waiting for justice with belated breath. However, it is important that the accused persons before the courts are granted a fair hearing where Counsel of their choice is available.

[2] My view of the matter is that the date suggested by the Crown would not advance justice as Counsel for the accused will not be available to defend his clients. In my considered view I rule in favour of postponing this matter to the next session of the court where the Registrar of the court is to allocate 14 days before the Chief Justice or any Judge for the hearing of this criminal trial.

S.B. MAPHALALA

JUDGE