

IN THE HIGH COURT OF SWAZILAND

HELD AT MBRABANE

CRIMINAL CASE NO. 02/07

In the matter between:

REX

V

MANDLA MAZIYA

CORAM

FOR THE CROWN FOR
THE ACCUSED

Q.M. MABUZA - JUDGE

MR. SIMELANE IN PERSON

SENTENCE 10/1/2007

[1]On the 21/3/07 the accused appeared before me and pleaded guilty to the crime of rape. The Crown accepted the plea.

[2] Before the accused pleaded the court made certain that he understood the implication of pleading guilty to such a serious offence and he assured the court that he did understand and confirmed that he would not change his plea.

[3] The court also enquired of the accused whether or not he was influenced by anybody to plead guilty. He assured the court that he had not been influenced.

[4] The court also asked the accused if he had been promised a lesser sentence and he said he had not been promised anything. He also informed the court that he freely and voluntarily without undue influence decided to plead guilty.

[5] A statement of agreed facts was handed in and read into the record and the Medical Report (Exhibit 1) was also handed in.

[6] In passing sentence I am taking into account that the accused is first offender and also the fact that he has saved the court a protracted trial. He has also saved the complainant a painful experience in rehashing the tragic events herein by pleading guilty.

I have to also consider the interests of society. The crime of rape is so rife that the courts have to pass sentences that send a message to rapists and potential rapists that we mean business when we say rapists must be stopped in their tracks. I also have to consider the victim. The medical report has disclosed that in as much as the complainant's hymen is intact, there is a marked **hyper ennia** suggestive of chronic sexual abuse. The complainant was only 13 years old when the offence took place. Only God and you know when you started abusing her. There is no way of knowing because she did not give evidence in this Court.

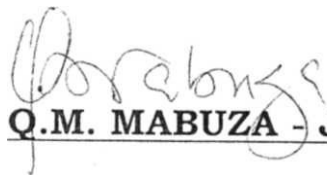
There is a plethora of legal authority that supports what you did as rape even if the hymen was still intact. I have no idea if the complainant was tested for HIV/Aids. The medical report does not disclose this fact. I have no idea as to how much counselling she has received if any. History tells us that victims such as the complainant do not fully recover from rape or dial nor do they properly adjust in society.

For you I hope the years you will spend in jail will bring home to you the fact that rape is a sordid crime and the rape of a minor is a most appalling thing to do especially because it is perpetrated on a defenceless child. She was

your neighbour and you were supposed to protect her and not violate her.

[10] In the circumstances I sentence you to 15 years imprisonment. The sentence is backdated to the 30/9/2006.

[11] You have a right of appeal and review (Rights of appeal and review explained to the accused)


Q.M. MABUZA - JUDGE