

**IN THE HIGH COURT OF SWAZILAND**

HELD AT MBABANE

CRIMINAL CASE NO. 76/07

In the matter between:

**REX**

v

**MALUNGISA MUTILATILA DLAMINI**

CORAM

FOR THE CROWN FOR  
THE ACCUSED

Q.M. MABUZA - JUDGE

MISS ZWANE IN PERSON

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**JUDGMENT ON SENTENCE 26/4/07**

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[1] The Accused herein was convicted in the Magistrates Court, Manzini and was committed to this court for sentencing. I have read the evidence presented by the

2

Crown witnesses and am satisfied that he was properly convicted.

[2] The Accused was charged with and convicted of the rape of a female minor S, who at the material time was about 7 - 9 years old.

[3] The Accused was unrepresented in the Magistrates Court. When he appeared before me he was unrepresented. Having confirmed that he understood the proceedings as to why he had been committed to the High Court for sentencing I invited him to address me on mitigation of sentence which he did.

[4] The Accused in his mitigation asked the court to be lenient with him as he was not educated nor literate. He wished to be released so that he could continue with his education. His father had died and he could not continue with his education. He lived with a sickly mother who was unemployed. He is currently 20 years old. He maintained his innocence. He is a first offender.

[5] On the other hand the complainant was a very young girl whom the doctor examined and found that the labia majora and minora had signs of infection, fungal or sexual and the labia minora was also bruised. The

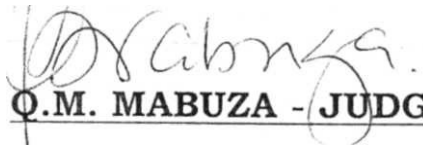
vestibule was inflamed and hymen torn a thing which the doctor explained as not being normal in a child of complainant's age. The vagina could admit one finger and the examination had been painful. The fourchette was bruised and there was some foul smelling yellowish discharge from the vagina. There was no active bleeding. The doctor's conclusion was that from the torn hymen and infection there was evidence of sexual abuse.

It is difficult for me as an adult to imagine this traumatic experience for a child so young. Even though the charge did include aggravating circumstances it is clear that there were because you infected the complainant as you did not use a condom.

The crime of rape is an evil menace to society and must be aggressively stamped out. The merciless infliction of pain on one so young shows that you are a sadist. All you wanted was to satisfy your sexual desires. You are afraid to pick on your size and age propose love to her and thereafter request sexual favours. The court is going to put you away for a long time so that you can ponder about the life you have destroyed and hopefully find repentance in jail.

4

[8] You are sentenced to 16 years imprisonment and the sentence is backdated to 22/8/2005 the date of your arrest. I have taken into account the fact that you are still young. You have a right of appeal and or review. (Rights of appeal and review explained to the Accused).

  
Q.M. MABUZA - JUDGE