



THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

Criminal Case No. 165/2007

In the matter between

REX

VS

THABANI DLAMINI Coram

For the Crown For the

Banda, CJ Mr. N.

Respondent

Dlamini Mr. B.J.

Simelane

JUDGMENT

[1] The accused was originally charged with the offence of murder. It was alleged that upon or about the 19th March 2006, and at or near Sitfwetfweni area in the district of Shiselweni the said accused did wrongfully, unlawfully and intentionally kill Khanyisile Sibandze. The accused pleaded not guilty to the charge of murder

but offered a plea of guilty to the lesser charge of culpable homicide.

[2] Mr. N. Dlamini, who appeared for the Crown, accepted the plea of guilty to culpable homicide. Mr. Simelane, who appeared for the accused, confirmed the plea as being in accordance with the instructions which he received from the accused. A statement of agreed facts was produced to be part of the evidence. I am satisfied and find that the agreed facts supported the plea of guilty and find the accused guilty of culpable homicide and he is accordingly convicted.

[3] In mitigation Mr. Simelane informed the Court that the accused was arrested on 28th March 2006 and that he has been in custody since that date; that he is a young man of 24 years old; that he has shown remorse and that his family have paid compensation of three animals to the deceased family and they have also paid all the funeral expenses which were incurred. Mr. Simelane has informed the Court that the accused confessed to the crime and has pleaded guilty.

[4] I have considered what Mr. Simelane has said in mitigation of sentence on behalf of the accused. I have taken into account the fact that the offence was

committed in the heat of passion of jealousy of his girlfriend, the deceased, who appeared to have had other relationships. But as against that, the accused killed the deceased in a brutal attack, in which the accused invited a friend to help assault the deceased. The accused is a first offender and a young man and in the circumstances he is sentenced to a term of imprisonment of 6 years. The sentence will be backdated to 28th March 2006 when he was arrested.

Pronounced at the High Court sitting at Mbabane this/frday of July 2007.

A handwritten signature in black ink, appearing to be 'R. B. S.', written in a cursive style.