

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CRIMINAL TRIAL NO. 134/08

In the matter between:

REX

VS

BANNY MESHACK MASANGANE

CORAM: MONAGENG, J

FOR CROWN: MR. NDZINGEKO DLAMINI

FOR ACCUSED: MR. SIHLE HLANZE

ACCUSED: PRESENT

JUDGMENT

10th JUNE 2008

[1] In this matter the accused person pleaded guilty to the criminal offence of culpable homicide, it being alleged that on the 27th September 2007, he killed Musa Msibi at Malangeni area in Manzini Region.

[2] The accused man had a long-term relationship with one Sijabulile Rose Mbuyisa and they had three children together. On this fateful day, the lover (Rose) was caught red handed by the accused with her secret lover, the deceased, after the accused and Rose Mbuyisa had agreed to spend the night together at her place.

[3] This led to the death of the secret lover when he was stabbed by the accused out of anger at the scene. The accused is a first offender who has pleaded guilty and somehow shows remorse for this action. His plea of guilty to culpable homicide has been accepted by the Crown.

[4] One thing that comes out very clearly, in this case, is that this is a crime of passion. This is a crime that can safely be said to be one where the accused did not have time to

think through the consequences of his actions, when he found his longtime lover and mother of his children in an amorous situation with another man.

[5] Moreover, the deceased insisted on denying that Rose was in his house when in fact she was. Having said this, I wish to state that the accused should have realized that stabbing the deceased would probably lead to his death and should have exercised much more restraint. I believe that this is also one of those cases where rehabilitation should be actively considered by the Court, although I am not trivializing the death of the deceased man the loss to his family.

[6] Regard being had to his personal antecedents and to the fact that he was quite clearly led into the commission of this offence by the deceased and his lover, I will accept his plea for me to temper justice with mercy and bend to part of his attorneys requests. He has been in custody since 28th September 2007 this is almost 8 months for this offence.

[7] He is sentenced as follows:

1. 2 years imprisonment.
2. The sentence shall take effect from 28th

September 2007.

3. Right of appeal against severity of sentence only.

SM MONAGENG
JUDGE