

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CRIMINAL TRIAL NO. 16/07

In the matter between:

MXOLISI MAZIYA

VS

REX

CORAM

MONAGENG, J

FOR CROWN

MS QONDILE ZWANE

ACCUSED

PRESENT IN PERSON

SENTENCE 7th JULY 2008

[1] SENTENCE

The accused person Mxolisi Maziya faces two counts of the criminal offence of rape. The Crown alleges that on the 8th June 2006, he intentionally engaged in an unlawful act by having forceful sexual intercourse with two female minors, one B T G and N D without their consent. At the time he was

13 years old, he is presently aged 16 years.

[2] This is a very serious offence which under normal circumstances would attract a very heavy sentence. I have alternatives regarding what sentence to pass as appears on the Social Welfare Officer's report. The report suggests putting the accused into the custody of a relative since he is orphaned but the only uncle who could be the accused's guardian and who could take him into his custody has refused to accept him for the reason that he has young girls the same age as the victims and fears that the accused could rape them. This door is therefore closed since there is nobody else. There are facilities for young people like him where schooling is also offered.

[3] I have taken his mitigation into account and hence him as follows:

1. 54 months imprisonment for each count
2. The sentences shall be backdated to the 9th June 2006 and they will run concurrently.
3. He shall serve the remaining period in a correctional institution that will rehabilitate him through schooling or other skills which are offered at the institution as advised by the

officers from the institution.

4. Right of appeal against sentence only.

S.M. MONAGENG
JUDGE