

THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

Criminal Appeal No. 8/2008

In the matter between

PETER MATSEBULA

Vs

REX

Coram

BANDA, CJ

MAMBA, J

For the Crown

P. Dlamini

For the appellant

Present in Person

JUDGMENT

August 2008

[1] The appellant was convicted on three counts of robbery by the Senior Magistrate's Court sitting at Manzini. The learned trial Magistrate treated counts two and three as one count for purposes of sentence. He accordingly sentenced the appellant to a term of imprisonment of three years on each count and ordered the sentences to run concurrently. The appellant was also sentenced to a term of imprisonment of eighteen (18) months on count four and the sentence was ordered to run consecutively to the sentences imposed on counts two and three. The appellant is effectively serving a total sentence of four and half $\{A^{-1/2}\}$ years imprisonment. The appellant appeals against the severity of the sentence only.

[2] The appellant filed a Notice of Appeal in which he contends

that the learned trial Magistrate erred in making the sentence of eighteen months to run consecutively with the sentences imposed on counts two and three. He has further contended that he is a first offender and that he has a family with four dependent children. He has, therefore, prayed that this court should show leniency to him.

[3] Mr. Dlamini, who appeared for the Crown, has submitted that the sentences imposed were proper and that a sentence is always a matter which is in the discretion of the trial court. He has further submitted that the trial Magistrate did not misdirect himself when he imposed the sentence on the appellant.

[4] We are satisfied that the trial Magistrate properly directed himself when he sentenced the appellant. He took the view that the offences committed were serious and are prevalent. He also noted that the appellant was a first offender and the offences were committed with minimal violence. As Mr. Dlamini has correctly submitted the sentence is always a matter within the discretion of the trial court. An appellate court can only interfere with the sentence imposed if it was wrong in principle or if it was manifestly excessive or comes with any sense of shock. We are satisfied that the sentences imposed were proper in the circumstances and we can see no merit in the appeal against sentence. Accordingly the appeal against sentence is dismissed.

R.A. BANDA
CHIEF JUSTICE

I concur

MAMBA J