

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CRIMINAL TRIAL NO. 31/05

In the matter between:

MANZI LUGOGO

VS REX

CORAM: MONAGENG, J

FOR CROWN: MR. S. FAKUDZE

FOR ACCUSED: MR. B.J. SIMELANE

ACCUSED: PRESENT

JUDGMENT

16th OCTOBER 2008

[1] The brief facts are that on or about the 2nd March 2004, at around midnight, at the Lugogo homestead in Luhlanyeni area, in the district of Lubombo, a woman known as Nanana Lugogo was murdered.

[2] When PW1, her brother in law and PW3 a police officer, together with neighbours to the Lugogos came to the homestead, they found the accused person Manzi Lugogo with the deceased and some children in a room. Both adults were naked and the accused was lying on top of the deceased, who looked dead. Her body, particularly the upper part, blocked the door of the room and as a result the people could not enter the room.

[3] A window was open and the deceased was observed carrying a knife. The woman's body had stab wounds. The accused was observed prancing around the room and sitting on the woman's body. The police were called, and ultimately a rope tied to a stick was used to pull the accused out of the room.

[4] The group gained entry into the room, where the woman was found dead. The accused was arrested and the woman's body moved to the mortuary. All this time, the accused never uttered a single word. When he eventually spoke, he was shouting and talking about a rhino horn.

[5] A post mortem was performed on the body and the pathologist observed severe cut wound injuries on the woman's neck, chest and breast. Other injuries and penetrating wounds were found on the lungs, chest, eyebrow, thumb, palm and the left forearm. The doctor concluded that the woman died of

these wounds.

[6] The accused was referred to the National Psychiatric Hospital in Manzini and examined by Dr. Ndlangamandla and the doctor recorded his findings on a report on the 10th August 2005. The conclusion he reached was that the accused suffers from a Schizophrenic Disorder, which is a chronic mental disorder that affects victims for a long period of time or that it could be a lifelong disorder.

[7] He was of the opinion that at the time of the murder, he was already suffering from schizophrenia. He observed that he needs care, control and treatment, in an appropriate institution, preferably the Criminal Asylum at the Correctional Services.

[8] On the 14th April 2008, another psychiatrist, Dr. Mangezi issued another report for purposes of these proceedings and also came to the conclusion that, at the time of the murder, the accused had a mental disorder. After the Crown closed its case, he gave evidence. He does not know anything about the murder, he does not remember what he did before the murder and is basically at a loss.

[9] Both Counsels for the Crown and the accused agreed that this is a typical case which should be handled under Section 165 (1) and (2) of the Criminal Procedure and Evidence Act. There is no doubt in anybody's mind that when the accused committed the crime, he suffered from schizophrenia. He cannot, as a result, be held criminally responsible for his actions.

[10] Pursuant to Section 165 (1) of the Criminal Procedure and Evidence Act, I find that the accused person did the act that he has been charged with, but that he was insane when he did it.

[11] Consequently I make the following order, pursuant to Section 165 (2) of the Criminal Procedure and Evidence Act:

It is ordered that:

1. The accused person be kept in custody as a criminal lunatic, at Matsapha Criminal Asylum of the Correctional Services Department, pending a directive by His Majesty the King.

2. The Attorney General shall receive an appropriate report for the information of His Majesty.

S.M. MONAGENG
JUDGE