



IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CRIMINAL CASE NO. 341/07

In the matter between:

REX

And

BUKIWE PHOLILE MANANA

CORAM : Q.M. MABUZA -J
FOR THE CROWN : MR. FAKUDZE
FOR THE ACCUSED : IN PERSON

SENTENCE 26/2/08

[1] The Accused pleaded guilty to the crime of culpable homicide and the Crown accepted her plea. She is alleged to have unlawfully assaulted John Dlamini of Emasini in the Shiselweni Region on the 17th February 2007 with a stone. He subsequently died on the 19th

February 2007 from the injuries inflicted upon him.

- [2] A statement of agreed facts was handed in by consent (Exhibit 1) and read into the record. Handed in by consent was Exhibit 2 which was a translated statement made by the accused to the Magistrate at Nhlangano and the post mortem report (Exhibit 3).
- [3] The background to the assault is set out aptly in the translated statement (Exhibits 2) and re-affirmed by the statement of agreed facts. The medical report states that the cause of death was “due to complications of multiple injuries”.
- [4] I found the Accused guilty of the crime of culpable homicide and invited her to address me on mitigation.
- [5] The Accused apologised for what she had done and that she did not commit the offence intentionally. Her husband and herself owned a homestead at Emasini area in the Shiselweni district. They had eleven children two of which had passed away leaving nine children, the eldest of which was twenty two years and the youngest five months. The Accused was cradling a 5 month baby in the dock which child she had given birth to while in custody awaiting trial.

[6] Her husband had died during October 2006 and this incident occurred while she was in mourning. The incident that triggered the assault on the deceased was that the deceased lived with a Gogo Mkhabela whom he had assaulted while the Accused was away. They both lived at Accused homestead. Upon her return she was told of what had taken place and she angrily confronted the deceased. The deceased did not take kindly to her confrontation and he slapped her with an open hand and a fight ensued. Both were drunk from imbibing marula beer which had been brewed at Accused's home. They had been drinking since morning and the fight took place in the evening about 6:00 p.m. The stone with which the Accused used to strike the deceased was small and fitted snugly in her right hand. I have taken the following factors into account. Accused was recently bereaved, she was drunk from marula beer, she was two months pregnant and angered by the deceased slapping her and Gogo Mkhabela and she used a small stone on the deceased. In addition she is 42 years old. She had a small baby at the time of the assault. She has no previous convictions.

[7] Even though the police took the deceased to the

hospital he returned without medication and the following day she gave him money to return to the hospital which he did not do and this probably escalated his death.

[8] I have taken into account the nature of the offence as well as the interests of society. Marula season is very popular but sadly it invariably comes with the loss of life. It is up to the courts to remind our society that negligent behaviour that leads to crime will not be tolerated just because it happens during marula season.

[9] The sentence of the Court is that of 6 years imprisonment two years of which are suspended for three years on condition that the Accused is not found guilty of a crime of which assault is an element. The sentence is backdated to 20/2/2007 which is the date of arrest.

[10] You have a right of appeal against the sentence. The rights of appeal explained to Accused.

Q.M. MABUZA -J