



**IN THE HIGH COURT OF SWAZILAND**  
**JUDGMENT ON SENTENCE**

Case No: 133/2011

In the matter between:

**REX**

and

**SIBONAKALISO LUKHELE**

**Neutral citation: Rex v Sibonakaliso Lukhele (133/2011)**  
**[2011] SZHC 134 (2012)**

**Coram: MABUZA J**

**Heard: 25/10/2011, 26/10/2011, 10/4/2012**

**Delivered: 21 JUNE 2012**

- [1] The Accused was convicted by me on the 14/6/2012 in respect of two counts of rape of two minor females after which I invited him to address me in mitigation before I passed sentence on him.
- [2] He re-iterated that he was innocent of the charges against him and therefore found it difficult to address the Court in mitigation.
- [3] Nonetheless he informed the Court that he was 23 years old and that I should be merciful when passing sentence as he was still young and had a future ahead of him. He never attended school. He further stated that before his arrest he was employed by Swazi Signs a company based at Matsapha and used to earn the sum of E1800.00 (One thousand eight hundred Emalangeneni). He had never been in trouble with the law before.
- [4] The prosecutor Mr. Dlamini confirmed that the Accused was a first offender.
- [5] I take into account the above factors especially that he is a first offender and that the Accused was 21 years of age when the offences occurred.

[6] I concede that he is illiterate but this cannot diminish a sense of what is right and what is wrong and violating minor girls sexually is not acceptable; and this is true whether one is literate or illiterate.

[7] I have also considered and taken into account the fact that rapes perpetrated on minor girls is on the increase and courts must mete out sentences that send a strong message to would be offenders to desist from such crimes. In this case the Accused raped a 5 year old and a 10 year old; both too young to resist effectively.

[8] I am mindful too of the fact that the Accused stated that he was assaulted by the police. Since 2010 my primary duties have been to try criminal matters. I have since then heard this refrain from Accused's persons over and over again: that they were tortured by the police in order to confess to a crime they are suspected of having committed. These allegations if true are very disturbing because they not only infringe on an Accused's rights but taint any confession resulting in it being inadmissible. Once a confession is thrown out because it is inadmissible the chances of obtaining a credible conviction are effectively reduced.

[9] In the circumstances I sentence the Accused as follows:

**Count 1**

The Accused is sentenced to fifteen (15) years imprisonment without the option of a fine.

**Count 2**

The Accused is sentenced to fifteen (15) years imprisonment without an option of a fine.

[10] The sentences are hereby ordered to run concurrently and backdated to the 10<sup>th</sup> December 2010 when the Accused was arrested and taken into lawful custody in respect of the rape charges herein.

---

**Q.M. MABUZA**  
**JUDGE OF THE HIGH COURT**

For the Crown : Mr. S. Dlamini  
For the Accused : In Person