



**IN THE HIGH COURT OF SWAZILAND
JUDGMENT**

Case No: 397/2010

In the matter between:

REX

and

MDUDUZI TSABEDZE

Neutral Citation: R v Mduuzi Tsabedze (397/10) [2012]
SZHC 187 (5 SEPTEMBER 2012)

Coram: MABUZA J

Heard : 30 JULY 12

Delivered: 5 SEPTEMBER 2012

[1] The Accused was indicted with the offence of murder it being alleged that on the 28th August 2010 at or near Logoba area in the Manzini District, he unlawfully and intentionally killed Dumsani Masilela.

- [2] When the charge was put to him, he pleaded guilty to culpable homicide and the Crown accepted the plea. His attorney confirmed the plea as being consistent with her instructions.
- [3] A statement of agreed facts signed by the Accused and the Public Prosecutor was read into the record. In it is recorded that the Accused stabbed the deceased on the chest. The events that led to the death of the deceased are set out in the confession that the Accused recorded before the Magistrate sitting at Manzini on the 31st August 2010 which was handed in by consent (Exhibit C).
- [4] The story told to the Magistrate was that the deceased and a colleague of his Sifiso Mavuso blocked the Accused's path as he headed home. The deceased pushed the Accused backwards and hit him on the chest then on his cheek with a fist. This angered the Accused who drew a knife from his pocket and stabbed the deceased twice on the chest.
- [5] The postmortem report was also handed in by consent (Exhibit B). It confirms the stab wounds on the deceased and that he died due to the stab wounds inflicted upon him.

- [6] Photographs of the deceased showing the stab wounds on his body were handed in by consent (Exhibit D1 – 6).
- [7] The Accused was convicted of culpable homicide in accordance with his plea.
- [8] Mr. Nxumalo for the Crown informed the Court that the Accused has no previous convictions and that he was a first offender.
- [9] In mitigation the Accused's attorney informed me that he was currently 27 years old; when the offence occurred he was 25 years old and therefore still immature. Because he was remorseful he confessed to the killing and he pleaded guilty to the crime thus saving the Court time by not going through a full blown trial. He asked for mercy. He acted in self defence. He is a breadwinner with three small children. When he was released on bail he adhered to the bail conditions and did not abscond.
- [10] Mr. Nxumalo for the Crown conceded that the Accused did not waste time by pleading guilty, was remorseful and was a first offender. However, a life

was lost forever. He stated that there were too many knives used at drinking places and that the Court should mete out a stiff sentence which will serve as a deterrent to the Accused and would be offenders. Society too expected the Courts to deal appropriately with offenders so that it does not lose confidence in the administration of justice.

[11] In passing sentence I have taken into account all the submissions made by Miss Simelane and Mr. Nxumalo. I have taken into account the Accused's personal circumstances, the crime, society's expectations and the victim whose life was cut short so unexpectedly.

[12] In the event the Accused is sentenced to seven (7) years imprisonment without an option of a fine. The period from 20/8/2010 to 20/3/2012 which

he spent in lawful custody in respect of this offence is to be deducted from this sentence.

Q.M. MABUZA
JUDGE OF THE HIGH COURT

For the Crown : Mr. P. Dlamini
For the Accused : Miss L. Simelane