



IN THE HIGH COURT OF ESWATINI

JUDGMENT

Held at Mbabane

Case No. 67/17

In the matter between:

REX

AND

JONATHAN AZON BHEMBE

Neutral citation: *The King vs Jonathan Bhembe [67/12] [2021] SZHC 73 (29th April, 2021)*

Coram: FAKUDZE, J

Heard: 29th April 2021

Delivered: 29th April 2021

JUDGMENT

- [1] The accused was charged with Murder in that on or about the 2nd June, 2016 and at or near Debedebe area in the Shiselweni Region, the accused unlawfully and intentionally killed one Sabelo Simelane.
- [2] The accused Pleaded guilty to a lesser charge of culpable homicide, which plea the Crown accepted.
- [3] The accused further agrees and admits the following to have transpired heading to the death of the deceased:-

3.1

In the evening of the 2nd June, 2016, the accused, deceased and others had been drinking traditional brew at the accused person's homestead. The deceased who was now in a questionable state of sobriety stood up and made the traditional dance moves (kugiya) using a stick to playfully assault those he was drinking with, whilst doing so mockingly struck pillars of an incomplete structure owned by the accused person while making a comment about the strength of the structure.

3.2

This did not sit well with the accused who stood up and fought with the deceased. The fight was then stopped after the intervention of the others. The two (accused and deceased who were drinking mates) however continued to engage in a verbal fight.

3.3

The accused then went away from the drinking group and eventually stood at the door of his house situated within the homestead. The deceased who still had the stick he was dancing with approached the accused whilst he (accused) stood at his door and enquired why the deceased had been assaulted during the earlier fight.

3.4

The accused then produced a spear and stabbed deceased on the upper body. Police here called and they conveyed the deceased to the Hlathikhulu Government Hospital where he was confirmed dead. The accused was then arrested and later granted bail.

[4] The accused further admits and agrees that:-

4.1

His conduct was unlawful and unjustified in the circumstance.

4.2

That he is responsible for the injury that led to the death of the deceased and that between his conduct and the death of the deceased there was no intervening factor(s).

4.3

That the death of the deceased was a direct consequence of his negligent conduct.

- [5] The accused further agrees that the following be handed into form part of the evidence:
- (i) the spear (murder weapon).
 - (ii) the autopsy report.
 - (iii) a photo album from the Police Scenes of Crime personal.
- [6] The court accepts the Statement of Agreed Facts and the accused is accordingly guilty of Culpable Homicide.

A handwritten signature in black ink, appearing to be 'FAKUDZE J.', written over a horizontal line.

FAKUDZE J.

JUDGE OF THE HIGH COURT

Rex: K. Mngometulu

Accused: X. Mthethwa