



IN THE HIGH COURT OF ESWATINI

JUDGMENT

Held at Mbabane

Case No. 18/17

In the matter between:

REX

AND

ELIJAH GINA

Neutral citation: *Rex vs Elijah Gina [18/17 [2023] SZHC 82 (18th April 2023)*

Coram: FAKUDZE, J

Heard: 4th April, 2023

Delivered: 18th April, 2023

JUDGMENT

- [1] The accused was charged with Murder in that upon or about 23rd January, 2017 and at or near Mhlatane area in the Manzini Region the said accused did unlawfully and intentionally kill Sicelo Langa.
- [2] When the charge was put to the accused he pleaded not guilty to murder but guilty to Culpable Homicide which Plea the Crown has accepted.

[3] It is therefore agreed between the Crown and the Defence that the following events took place leading to the commission of the offence:-

3.1 On 22nd January, 2017 at about 0000 hours the accused person went to sleep together with his wife. Some few minutes later and while they were in bed, his wife received a call and she picked it up and answered it. In the conversation, the accused overheard his wife saying the person is in the house and she dropped the phone.

3.2 The accused asked his wife about the call. The wife said the person who had been calling was from Matsapha and he is proposing love to her.

3.3 The accused took his wife's phone and called the number that was calling his wife. The accused lowered his voice and pretended to be the wife and he told the person on the other side (who happened to be the deceased) to come over. The person had gone and she is now alone.

3.4 The accused took his wife's clothes which included a dress and a jacket with a hood together with a claw hammer and went outside the house. He left his wife asleep. He then wore his wife's clothes and covered himself with the hood of the jacket.

3.5 A person approached from the gate. That person happened to be the deceased. The accused went to meet the deceased towards the verandah. The deceased went straight to the accused and hugged him. The deceased further called the accused sweetheart.

3.6 At that moment the accused produced the claw hammer and hit the deceased on the head. The deceased produced a knife and tried to stab the accused. The knife was eventually taken by the accused and used it to stab the deceased with it several times all over the body. The deceased sustained multiple injuries all over the body.

3.7 The deceased then managed to escape and ran for his life. He ran and fell at a neighbouring home where he was later found dead after 2 days. The accused body was taken to hospital where he was certified dead by a medical doctor. The accused handed himself to the police.

4. The accused specifically admits that:

4.1 he acted negligently in the circumstances.

4.2 As between the conduct of the accused and the death of the deceased there is no *actus novus inter veniens*.

4.3 The deceased died as a result of wounds inflicted by the accused.

5. It is further agreed that the Statement of Agreed Facts together with the Autopsy Report are handed in as part of the Crown's evidence.

[6] The accused is accordingly found guilty of the offence of Culpable Homicide.

FAKUDZE J.

JUDGE OF THE HIGH COURT

REX: A. MKHALIPHI

ACCUSED: O. NZIMA