

IN THE COURT OF APPEAL OF SWAZILAND

CRIMINAL APPEAL NO. 1/98

In the matter between:

SIPHO MAZIYA

VS REX

CORAM : KOTZÉ J P

: SCHREINER J A

: STEYN J A

FOR THE APPELLANT : IN PERSON

FOR THE CROWN : MR. MASEKO

JUDGMENT

Steyn J A:

Your application for leave to appeal is directed both against your conviction on a charge of rape and the sentence of ten years' imprisonment imposed upon you.

The Crown has opposed that application on the ground that there are no reasonable prospects of success either in respect of the conviction or in respect of the sentence. However the Crown has conceded that we can consider backdating the sentence to the date of your arrest. In - so - far - as the conviction is concerned, we are quite satisfied that both the Magistrate and the High Court were right in convicting you and that you have no prospects of success in an appeal. We are also satisfied that the sentence of ten years' imprisonment in view of your previous conviction for rape was perfectly justified. However we are prepared to agree to your request to backdate your sentence to the date of your arrest.

It follows that the application for leave to appeal against your conviction and sentence is refused

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and the conviction and sentence are confirmed. However your sentence is backdated to the date of your arrest. In other words, the period which you have served prior to your conviction will be to your credit for the purposes of determining the effective length in your sentence.

J.H. STEYN J A

I agree:

G. P. C. KOTZÉ J P

I agree:

W. H. R. SCHREINER J A

Delivered on 21st April 1998.