

IN THE COURT OF APPEAL OF SWAZILAND

HELD AT MBABANE
Criminal Appeal No. 18/2004

In the matter between

JOSEPH MKHWANAZI & OTHERS Appellant

And

THE KING Respondent

Coram

BROWDE, JA

STEYN, JA
TEBBUTT, JA

JUDGMENT

BROWDE, JA

The appellant was charged in the High Court with the crime of murder, it being alleged by the Crown that on the 24th March, 2001 at or near Maqobolwane area, Mbabane, he wrongfully and intentionally killed Nompumelelo Dlamini. He pleaded guilty to Culpable Homicide which plea was accepted by the Crown, The facts briefly put were as follows. The deceased was the mother of a child of whom the appellant is the

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father. On the fateful day the appellant came to the deceased in order to pick up the child whom he intended spending some time with. An argument ensued, the details of which are unknown, but which culminated in the appellant stabbing the deceased to death with a knife. He was found guilty and sentenced to 7 years imprisonment.

In arguing his appeal before us, the appellant, who confined his appeal to the sentence only, expressed concern for his 8 children who are presently being cared for by the appellant's mother. The children range in age from 18 years to 8 years and include the child born of the deceased. Whilst one feels sympathy for the children and understands the concern of the appellant, the suffering of children is an inevitable consequence of the commission of a serious offence deserving of a custodial sentence. This is such a case.

The learned Judge a quo gave consideration to all the facts relevant to sentence and in so doing in no way misdirected himself. Although 7 years is a severe sentence, it was no more than could reasonably be expected by the appellant, who has had many previous convictions which show, as was put by the learned Judge, "a consistent degree of aggression."

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The appeal is dismissed and the conviction and sentence are confirmed.

DELIVERED IN OPEN COURT THIS..DAY OF NOVEMBER, 2004
J. BROWDE, JA

I AGREE

J.H. STEYN

I AGREE

P.H. TEBBUTT