

IN THE HIGH COURT OF SWAZILAND

In the matter of: CRI. T. NO. S.223/83

the queen

vs

SIBUSISO EDWARD NYONI

CORAM : B. DUNN, ACTING JUDGE

FOR CROWN: MR. S.N. DLAMINI

FOR DEFENCE: IN PERSON

JUDGMENT OH SENTENCE

(Delivered on 21st February, 1984)

Dunn, A. J.;

You have been found guilty of Attempted Rape. You have a fairly long list of previous convictions which includes two convictions for rape. In 1967 you were fined E100 or 12 months imprisonment on a charge of rape and in 1968 you were sentenced to 4 years imprisonment on a charge of rape. These convictions are relevant to the present conviction. I will take this factor into account when imposing sentence on you.

Although you have been convicted of Attempted rape it is proper for me to point out that there is an alarming increase in the number of rape cases coming before the Court. I feel it is the duty of this Court to impose such sentences as will not only serve to deter you in future against this type of offence, but will deter other male members of the community from engaging in this type of conduct. You had ample opportunity to reflect on what you were doing as you walked with the complainant from town towards the National Baptist Church and into the forest where you attempted to have sexual intercourse with her. People like yourself should bear in mind your personal circumstances before embarking on this type of conduct. The fact that you are the sole bread winner or that you have children who will be left alone is not a factor which

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will be made to over ride the fact that you have been convicted of this serious offence. I will take into account the period which you spent in custody awaiting your trial. To that end you will benefit by the 9 months and 15 days which I calculate was the time you spent in custody.

The sentence will be one of 5 years imprisonment with effect from the 17th March, 1983. You are further warned of the danger of being declared an habitual criminal upon future conviction for the crime of rape.

B. DUNN.

ACTING JUDGE.