

IN THE HIGH COURT OF SWAZILAND

CRIMINAL CASE NO. 32/97

IN THE MATTER BETWEEN

REX

VS

AARON NANA KUNENE

CORAM

S.B. MAPHALALA - A J

FOR CROWN

MISS NDERI

FOR DEFENCE

MR C. NTIWANE

SENTENCE

(26/08/97)

I have considered all your personal circumstances as submitted by Mr. Ntiwane your attorney, that you are a first offender. That you pleaded guilty to this offence, and this shows that you are remorseful for what you have done. I have also taken into consideration the fact that you have been in custody for over a year now. I agree with Mr. Ntiwane that is itself is a punishment. I have also taken into consideration the circumstances that led to the commission of this offence.

It is clear from the facts that the deceased was the one that provoked the whole saga, unfortunately. I have also taken into consideration that the accused did not intend to kill the deceased. The accused is an elderly person between the ages of 59 - 60 years. That he is a married man with seven children. I have also taken into consideration the submission made by Mr. Ntiwane that a portion of your sentence should be suspended. I have taken all these circumstances into consideration. However, I must point out that here we dealing with a case where a life has been lost, and this makes it a very serious matter. As Miss Nderi has rightly pointed out the deceased was also elderly person. He also had relatives or children to take care of. I will try to balance the interest of justice with that of accused.

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I am going to suspend a portion of accused sentence. I am going to sentence you to six (6) years imprisonment, half of which is suspended for three years, on condition that the accused is not convicted of an offence in which violence is an element committed during the period of suspension.

The sentence is backdated to 1st October 1996.

S .B. MAPHALALA

ACTING JUDGE