

CRIM. CASE NO. 145/96

IN THE MATTER BETWEEN

REX

VS

LINDIWE MSIBI

**CORAM
FOR CROWN
FOR DEFENCE**

**S.B. MAPHALALA – AJ
MR J. MASEKO
MR N.J. HLOPHE**

**SENTENCE
(19/08/97)**

I have taken all your personal circumstances into consideration in arriving at a proper sentence. The circumstances which have been submitted by your attorney Mr. Hlophe. That you are a first offender and that this incident emanated from some quarrel between you and the deceased, and that all such quarrels were provoked by the deceased, and I have also taken into consideration that were it not for the provoking attitude of the deceased this incident would not have taken place. It is clear from the facts submitted before this court that the deceased was the one who provoked the fight, and that she was the aggressor, that she provided the sticks that were used in the fight between you and the deceased. I have also taken into consideration that you never at any stage planned to kill the deceased, that in all the prior incidences you reported the dispute to your husband. However, your husband did not try to solve the problem, and it has been also revealed in the facts submitted before court that you even went to report the matter to the chief. It clear to me that at all times you were trying to solve this problem amicable. I have also taken into consideration that you pleaded guilty to this offence and did not waste the courts time, and I have also taken into consideration what Mr. Hlophe has just told the court that this death occurred in a family situation. That the death of the deceased will always be with you and that would be in itself punishment. I have also taken into consideration that you have got a number of minor children, and it has been submitted that six of these children are no longer attending school because you are in custody. I have also taken into consideration that you have been in custody for sixteen months now and I believe that this period that you spent is punishment in itself.

I am total in agreement with your attorney Mr. Hlophe that in the circumstances a wholly suspended sentence would be appropriate. I am going to sentence you to five years imprisonment and the whole sentence be suspended for a period of three years on condition that you are not convicted of an offence in which violence is an element committed during the period of suspension.

S.B. MAPHALALA
ACTING JUDGE