



IN THE HIGH COURT OF SWAZILAND

REX

Vs

ZWELI RICHARD SHABANGU

Criminal Case No. 286/2002

Coram

S.B. MAPHALALA-J

For the Crown

MR. S. FAKUDZE

For the Defence

IN PERSON

REASONS FOR SENTENCE

5th September 2007

[1] The accused person who is conducting his own defence pleaded guilty to the crime of attempted murder where it is alleged in the indictment that upon or about the 1st October 2006, and at or near Sibovini area in the Shiselweni Region, the accused did unlawfully and with intent to kill, stab Sibongile Sibandze and did thereby comitt the crime of attempted murder.

[2] The Crown then proceeded to read into the record a statement of agreed facts which records the following events:

1. **Upon or about the 1st October 2006, and at or near Sibovini area in the Shiselweni Region, the accused did unlawfully and with intent to kill, stab one Sibongile Sibandze and thereby commit the crime of attempted murder.**
2. **The accused person admits to inflicting the injuries Sibongile Sibandze suffered on the 1st of October 2006.**
3. **The summary of evidence and report on medical examination be handed in and be part of the evidence.**
4. **The accused person was arrested on the 5th October 2006, and has been in custody ever since.**
5. **The accused person is tending a plea of guilty to the charge of attempted murder which plea the Crown accepts.**

[3] Further a medical examination report of the injuries on the complainant was entered as exhibit "B".

[4] In the circumstances in view of the accused person's plea of guilty and the admission of the statement of agreed facts as "*aliende*" evidence of the commission of the offence was convicted of the crime of attempted murder.

[5] Following the above-cited verdict the accused person tendered certain facts in mitigation of sentence as follows: Firstly, that the person he injured had no quarrel with him but other people he had quarreled with pushed him to the injured person. Secondly, that after he had injured the complainant he organized transport to take the complainant to hospital. Thirdly, that he is a

sickly person suffering from T.B. and the dreaded HIV-Aids. Fourthly, that he was from a poor family in that he cannot afford medication for the diseases he is suffering from. Fifthly, that he is 23 years old and unmarried with one minor child who is now 4 years old and is being looked after by his sickly mother. His mother has been retired and is epileptic. He was arrested on the 5th October 2006, and has been in custody ever since.

[6] At this stage the court is to mete out a proper sentence in the circumstances. The court is to consider firstly, the interest of society and secondly the nature of the offence and thirdly, the interest of the accused as propounded in the often cited case of *S vs Zinn (1969) (2) S.A. 537 A*.

[7] On the facts of the present case weighed against the principles of law cited above in the South African case of *S vs Zinn (supra)* and the fact that after the assault on the complainant the accused made means to have the complainant taken to hospital and that accused has been in custody from the 5th October 2006, I have come to the view that accused has learnt a lesson from his misdeed and therefore a wholly suspended sentence will be appropriate to the facts of the matter.

[8] In the result, the accused is sentenced to 5 years imprisonment the whole sentence is suspended for a period of 3 years on condition that accused is not convicted of an offence in which violence is an element committed during a period of suspension.



S.B. MAPHALALA