

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CRIMINAL CASE NO. 18/06

In the matter between:

REX

VS

MATHENGA SOLOMON MASUKU

CORAM: Q.M. MABUZA -J

FOR THE CROWN: MR. M. MASEKO

FOR THE ACCUSED: MR. M. MDLULI

SENTENCE 6/11/07

[1] In passing sentence I have to balance the crime, the interests of society and yourself.

[2] The taking of another person's life is a very serious crime. The way you took the deceased life was so easy and over a trivial issue that it boggles the mind. You are very lucky that it is not murder you are charged with, but in the hierarchy of crimes against the person culpable homicide is the next serious one next to murder so that if you mentalise the hierarchy murder is at the top, next is culpable homicide and thereafter assault to do grievous bodily harm and last common assault. That is the order of seriousness so if for murder the sentence is either by hanging or a life sentence what sentence should the courts mete out for culpable homicide?

[3] I have to also look at the interests of society. Society on the one hand expects the court to pass sentences that are commensurate with the crime and also send a message that would be offenders desist from committing a similar crime.

[4] I have to look at you as well as the offence. You are about 45 years old. You had never committed an offence before and the first one you commit is the taking of another person's life thereby blemishing a clean life.

[5] I am told by your lawyer that you are remorseful I have no doubt that you are but I was not told what you did for the deceased's family in order to show your remorse.

[6] The deceased was 38 years old. I have not been told whether she was married or not or whether she left any children behind, and how *old* those children are. The fact is if she has children you have robbed them of a parent and if she has parents you have robbed them of a daughter. You have robbed your own family of a father and husband and so both your children and deceased's children may grow up and be a state liability.

[7] I was not given an explanation as to why you carry such a dangerous weapon when you go drinking. I also have been told that in spite of being drunk you were able to aim straight for the deceased's heart. Everybody knows that the heart is a very vulnerable organ. And you inflicted one wound. I believe that somewhere in your subconscious you knew that by going directly for the heart she would be fatally wounded. However, in your favour is the fact that you arranged transport for her to be taken to the hospital.

[8] In the circumstances I sentence you to 12 years imprisonment. 3 years of which are suspended for 3 years on condition you are not convicted of an offence of which violence against another person is an element. The sentence is backdated to the 11/ 10/2005.

Q.M. MABUZA

JUDGE