



**IN THE HIGH COURT OF SWAZILAND**  
**JUDGMENT**

HELD AT MBABANE

Case No. 173/07

In the matter between:

**REX**

v

**ZANELE DLAMINI**

Neutral Citation: Rex v Zanele Dlamini (173/07) [2015] SZHC 125 (9 JULY 2015)

Coram : MABUZA J

Heard : 17/10/12; 18/10/12; 11/2/13; 12/2/13; 13/2/13; 4/4/13; 16/7/13;  
17/7/13; 22/10/13; 29/10/13 27/01/14; 27/01/14; 6/2/2014;9/7/15;  
4/8/15.

Delivered : 9 JULY 2015; 3 SEPTEMBER 2015

**SUMMARY**

**CRIMINAL LAW – DOMESTIC VIOLENCE – HISTORY OF PROTRACTED FAMILY  
DISPUTES – ACCUSED CHARGED WITH MURDER – FOUND GUILTY OF  
CULPABLE HOMICIDE.**

## JUDGMENT

### MABUZA -J

- [1] The Accused is charged with the murder of her father in-law Mabukwa Timothy Vilakati in that upon or about 2<sup>nd</sup> June 2006 at or near Phonjwane area in the District of Lubombo, the Accused did unlawfully and intentionally kill Mabukwa Timothy Vilakati thereby committing the crime of murder.
  
- [2] The medical report (Exhibit B) and the post-mortem report (Exhibit A) were handed in by consent. The medical report shows that when the deceased was examined upon admission at the Mbabane Government hospital on the 2/6/2006 he had  $\pm$  65% mixed thickness burns to both his upper limbs, head, torso and inner part of both thighs. He died on the 2/6/2006 at the Mbabane Government hospital. The post-mortem reveals that the cause of death was due to complication of burns. It also reveals that there were dermo-epidermal burns present all over the body (100%) and ante-mortem in nature. (See item 20 thereof).
  
- [3] Abednego Vilakati (PW1) is a son to the deceased from a girlfriend. On the 2/6/2006 he was 13 years old and when he gave evidence on the 17/10/11 he

was 17 years old. The Accused is his sister in law. She is married to his elder half-brother. PW2 is the Accused's daughter. She was 17 years old on the 2/6/2006. PW3 is the Accused's daughter and she was 22 years old on the 2/6/2006.

[4] PW1, stated in his evidence in chief that on the night of the 2/6/2006 he was sharing a bed with the deceased in the latter's one room house. The Accused arrived smashed the glass windows and opened the door with a crowbar. The commotion caused him and the deceased to awake and the deceased went to the door which opened to reveal the Accused. The Accused doused diesel onto the deceased, took a knob-stick from the inside corner of the house and struck the deceased on the head with it.

[5] The deceased disarmed her of the knob- stick and she turned and fled towards her house. The deceased pursued her and tried to hit her with the knob- stick but missed. She ran into her house and the deceased turned back to his own house. PW1 had fled the house by then and was standing 20 metres away from the deceased outside the fence from where he observed the rest of the events. He was not far from gogo Ndlovu's house which is also outside the fence. Gogo Ndlovu is the wife to the deceased but lives on

her own in a separate house just outside the fence. The deceased lived alone inside the fence in a one room house.

[6] PW1 says that from where he was standing he saw the Accused come out of her house, take her car out of the garage and drive it towards the deceased's house. As the deceased was coming out of his house the accused threw a lit match at him which set him alight. PW1 was sent by gogo Ndlovu to go and call Nora Vilakati one of her daughters. When he returned he found that the fire on the deceased had been put out.

[7] He stated that there was no quarrel between the Accused and the deceased on the 2/6/2006. They had quarrelled on the day before on the 1/6/2006 as a result of the deceased having rebuked the Accused for sweeping the yard at night.

[8] PW1 described the crowbar as being sharp at both ends. He identified the crowbar and the knob-stick.

[9] It was established through cross-examination of PW1 that the deceased's meals came from the Accused's house either cooked by Sikhulile her

daughter or by the Accused herself. It was put to him that the bone of contention between the Accused and the deceased was caused by Nora and Nomsa who were sisters of the Accused's husband and were natural daughters to the deceased. They did not like the Accused. It was alleged that they used to tell the deceased lies about the Accused. The deceased would pass on the lies to the Accused's husband who would in turn show his displeasure to the Accused by not sleeping at home but with a girlfriend. PW1 denied any knowledge of these allegations.

[10] It was further put to him that even the deceased's wife hated the Accused; that at one stage, she, Nora and Nomsa instructed an attorney to institute proceedings against her in order to evict her from the Vilakati home. He denied any knowledge of this and further denied any knowledge that all those stated women were on bad terms with the Accused.

[11] It was put to him that the deceased caught fire when he tried to put out the flame from a lit newspaper which had been thrown at the house by the Accused who was determined to burn down the house so that the deceased would no longer have a house to live in. PW1 denied that the Accused was intent on setting the house alight but the deceased.

- [12] He was asked if he was aware that during 2009 Nora laid a charge against the Accused for insulting her. He responded that he was not aware of this.
- [13] It was put to him that prior to the fire the Accused and the deceased had an altercation on Friday 2/6/2006 but he denied this and stated that the altercation occurred on Thursday 1/6/2006.
- [14] It was further put to him that the light in the deceased's house was sourced from the Accused's house via a cable. She cut this cable during their fight with the deceased. He agreed that the light was sourced via a cable from the Accused's house but was not aware as to who had cut the cable that night.
- [15] It was put to him that after he jumped the fence and stood 20 metres outside he could not see what was taking place inside the yard as it was now dark. He denied this and stated that there was moonlight which provided enough light for him to see.
- [16] It was put to him that because of the cut cable he did not see the Accused when she poured petrol on the deceased. He denied this and said that he

could see her as the door was open and there was moonlight streaming through the door and because he was standing behind the deceased.

[17] It was put to him that the Accused sprinkled paraffin inside the deceased's house because she wanted to burn it. He denied that she sprinkled the paraffin in the house but poured it on the deceased.

[18] Sikhulile Vilakati (PW2) next gave evidence. She testified that the argument between the Accused and the deceased began over her sweeping the yard at night. It then developed into a fight whereupon she called her older brother Senzo and her older sister Lomkhosi and they tried to separate the two. She says that while they were separating them, the Accused lit a newspaper and threw it into the deceased's house. When she threw it he tried to block the burning paper but it stuck on to his arm and he was set alight. Senzo took a blanket and covered the deceased with it and put out the fire.

[19] She says that when the Accused threw the lit newspaper the deceased was standing on the inside of the open door. However it was only him who burnt and not the contents of the house nor the house itself.

[20] During cross-examination PW2 confirmed the contents of a statement that she recorded with the police on the 4/6/2006. The contents of the statement recorded at the police station are the same as the evidence she adduced before this court as to how the deceased burnt.

[21] Lomkhosi Vilakati (PW3) testified that when PW2 called out to Senzo and herself, they went outside where she noticed that the Accused was very angry and the deceased was carrying a spear. She says that Senzo disarmed the deceased of the spear and the Accused disappeared. After a short while she saw the Accused carrying a lit newspaper which she threw which fell on the ground in front of the deceased. The deceased caught fire from that lit newspaper. She says that the deceased was standing in the door of his house when he caught fire.

[22] During cross-examination she confirmed the evidence of PW2 that the Accused did not throw the lit newspaper at the deceased but into the house. And the deceased would not have burnt had he not tried to put out the lit newspaper.



[23] 3187 Sergeant Mfanasibili Dlamini (PW4) testified that on 2/6/2006 at 9:30 p.m. he responded to a report that domestic violence was taking place at the Vilakati homestead. Upon arrival there he learnt that the deceased and the Accused had been fighting. The deceased was burnt and the Accused was bleeding on her head. He also collected some exhibits. After he learnt that the deceased had died in hospital on the 3/6/2006 he charged the Accused with the crime of murder. He handed into court as exhibits two spears, a bush knife, a crow-bar and a broken knob stick. He identified the Accused in court by pointing her out in the Accused's dock.

[24] The Accused's confession made on the 5/6/2006 to a Magistrate was handed in by agreement of the parties and was marked Exhibit C. Thereafter the Crown closed its case and the defence case opened.

[25] The defence case opened with the Accused (DW1) giving evidence. She testified that she was at her home on the 2/6/2006 when he saw her son Senzo (DW2) come home at about 8.00 p.m. without his father her husband. Her husband operates a mini-bus transport business and Senzo is its conductor. Immediately she suspected that the deceased had told lies about her to her husband. Whenever her husband did not come home after work or

did not sleep at home was a sign that he was annoyed with her because of lies the deceased had told him. She went to confront the deceased with her suspicions. She found him seated on the doorstep and joined him.

[26] The deceased ordered her to leave his house but she refused and persisted with her questions. The deceased stood up went into the room and took a bush knife, knob-stick and a spear and came towards her. She ran into her house through the kitchen door but he pursued her. She partially closed the door and he remained outside. When she peeped thinking that he had left, he struck on her head with a knob-stick. She shut the door and feeling dizzy she sat down under a table in order to try and regain her composure. Because she was in pain she became very angry. She was hurt because the deceased used to be the only member of the family who used to protect and defend her from other family members including her husband who often beat her up. The deceased was the only one that she truly got along with hence her agreeing that he occupy the room that he lived in which she had constructed. The Accused decided that the deceased should move out of the room he lived in and go to live with his wife outside the compound. In order to force him out she decided to burn the room in which he lived together with its contents.

[27] She took a bush knife and a container which had paraffin and went out of the kitchen. As she left the kitchen he struck again with his knob-stick but missed her. She closed the door quickly and remained in the house for a while. When she peeped out again he struck with the knob-stick and because she delayed in closing the door, the knob-stick flew into the house and struck the wall opposite above the passage door. It almost struck Senzo who at that time was coming through the passage door. The head of the knob-stick broke off.

[28] She says that she felt deep pain and this pain caused her to sit down and cry for a long time as she realized that the deceased's intentions were to kill her or to drive her away from her home.

[29] She says that after that she decided to leave the kitchen no longer caring whether he assaulted her or not. She poured the paraffin into a bucket and took a knob-stick. She cut the electric cable that supplied the deceased's room with electricity. She headed to the deceased's house and along the way next to the maize crib she found a crowbar which she used to break the windows of the deceased's house as well as the door. She gained entry into

the room and poured the paraffin onto the deceased's belongings. His belongings hung from a rope suspended between two walls (**umgibe**).

[30] She says that the deceased suddenly appeared carrying weapons. She did not note from which direction he came from. Asked by her attorney whether or not he was inside the house when she poured the paraffin she responded that she did not check for his whereabouts.

[31] When she saw him approach she ran back to her house and closed the door. While inside the house she decided to go and find her husband and leave the deceased alone. She took her car keys and went to the garage. As she was reversing the car out of the garage she saw the deceased behind her. He was carrying a spear and another weapon that she did not recognize. She noted that he was coming towards her on the driver's side so she swerved towards him in order to head him off.

[32] When he realized that the car was heading towards him he ran back to his room and she followed him in the car until he reached his doorstep. By then the car was facing forward. The deceased came after her again. He struck the bonnet with the spear. The spear slid down and was stopped by the

rubber on the windscreen. She switched off the engine and alighted from the car. She went to the deceased with her arms stretched wide and told him to kill her.

[33] At her invitation he took the spear and struck her with it. The spear struck and wounded her left breast and buttock. She grabbed him and a fight ensued wherein they assaulted one another with fists. Her children arrived and Senzo tried to separate them and all three fell to the ground. All this happened in front of the deceased's house. Eventually Senzo separated them. She picked up a newspaper that she had intended to use with which to burn his clothes. She found the matches, lit the newspaper and threw it towards his house but Senzo deflected it and it fell onto the steps. She had intended to throw it onto his clothes; she turned back towards her car.

[34] She stated that when she threw the lit newspaper into the house she did not know where the deceased was; he could have been in his house or round the corner. It was dark so she did not see him. She only saw Senzo because he was in front of the deceased's door. She says that she had earlier thrown the paraffin into the house. The paraffin was in a five litre bucket but it was not full. She threw all its contents into the house.

[35] When she headed for her car she saw her shadow in front of her because it was suddenly light. She turned around and saw that the deceased was up in flames. She did not see where he had come from. She stood there petrified and in shock could not move to help the deceased or talk to give her children's instructions on how to help him. Senzo appeared with a blanket, wrapped it around the deceased and put the fire out.

[36] When her attorney asked her that when she poured the paraffin on his clothes was it possible that she poured paraffin on him she replied that she did not. It is pertinent to note at this point that in her confession she says:

**"I opened the door and sprinkled paraffin. I wanted to burn all the items the house and further burn the house. I did not know that the deceased was next to the items when I sprinkled the paraffin and that he would be sprinkled with the paraffin."** (My emphasis)

[37] Elsewhere she says:

**"The way the fire caught to the deceased I suspected that the paraffin caught him when I sprinkled it to his clothes and house."** (My emphasis)

[38] She says that she left the homestead after Senzo had wrapped the deceased with a blanket.

[39] On the 22 October 2013, the court conducted an inspection in loco at the accused's homestead. This was at Phonjwane area near Siphofaneni in the Lubombo district. The court needed to get a sense of the area the fight between the Accused and the deceased had taken place.

[40] Mr. Dlamini cross-examined the Accused. She confirmed that it was not the first time that her husband had failed to return home on the 2/6/2006 due to the deceased's having told him something negative about her. That led her to confronting the deceased as to what he had told her husband. It was suggested to the Accused that she had planned the deceased death in advance and had purchased the paraffin and waited for the right moment to use it on the deceased. She denied this. She denied having poured the paraffin onto the deceased. She stated that the whole altercation between her and the deceased took about 1 hour and some minutes.

[41] She was asked why she decided to chase the deceased with her car instead of just reversing and going out through the gate. She responded that had she

reversed she would have injured the deceased. She decided to drive behind him and lit his way for him to his house. She denied that it was because she wanted to see his whereabouts so that she could easily set him alight.

[42] In the confession (Exhibit C) that the Accused recorded before the Honourable Magistrate this is what she stated relating to how the deceased burnt:

“My son took a blanket and rolled it to him and such fire was put off.  
**The way the fire caught to the deceased I suspected that the paraffin caught him when I sprinkled it to the clothes and house.”**  
(My emphasis)

[43] Senzo Vilakati (DW2) is a biological son to the Accused. He testified that on the material day he arrived home between 7.30 p.m. and 8:00 p.m. He found the Accused, PW2 and PW3 in the house. The Accused asked where his father was and he told her that he had left his father at the bus stop.

[44] After about 10 minutes the Accused went out to the deceased’s house and he heard their raised voices as they were quarrelling. Hearing something being thrown PW2 went out to investigate what could be happening. PW2 called



out to DW1 to come and separate the Accused and the deceased who were fighting.

[45] DW2 left the house and noticed the Accused and the deceased manhandling one another. The Accused had something in her hand but he did not see what it was. He saw the deceased stabbing the Accused. He ran to them, the momentum of his speed caused them to fall down. He pulled the Accused backwards and the deceased stood up and entered his house. He followed the deceased to the door of his house enquiring what the fight was about. The Accused was at the corner of the house.

[46] He heard his sisters shout “**Hayi make, hayi make!**” (meaning no mom, no mom!) He turned around to see what was happening and saw that the Accused was carrying a newspaper which was already lit. She tried to throw the lit paper above his head into the door but DW2 raised his hands and blocked it. She then threw it between his open legs into the house. DW2 says that he tried to pull the burning paper out of the house and the deceased also bent towards it trying to deflect it away from the house. As he was doing this he caught fire.

[47] PW3 threw some cold water over him in an effort to put out the fire DW2 ran to his rondavel and retrieved a blanket with which he wrapped the deceased and put out the fire.

[48] DW2 was cross-examined by Mr. Dlamini who asked him to read the statement that he had recorded at the police station at Siphofaneni on the 4<sup>th</sup> June 2006. The statement is reproduced hereunder.

“At that time my mother entered the house carrying a paper with a flame of fire and she threw it on the floor and a big flame began then **mkhulu** tried to put it off with his hands only to find that he was wet with paraffin on his clothes and at that time I saw him by the door of the big house at that time I did not know that he was wet with paraffin, yet I had heard him saying “*utongicaphata utongitsela nga paraffin*”. (**you have come to provoke me, sprinkling paraffin on me**) (My emphasis).

[49] It is of critical importance to note DW2’s version of events in his statement recorded with the police on the 4<sup>th</sup> June 2006 when the events were still fresh on his mind and that of his evidence before court given on the 27<sup>th</sup> January 2014. (7 years later) After the statement was read into the record, DW2 was asked if it was the same statement that he had recorded with the police he

agreed. The statement became part of his sworn evidence and consequently admitted in court.

[50] Murder is the unlawful and intentional killing of a human being. Has the crown proved these elements beyond a reasonable doubt? The Crown says that it has done so and that the Court should find the Accused guilty of murder in the form of *dolus directus* alternatively *dolus eventualis* alternatively culpable homicide.

[51] The defence on the other hand says that none of the elements of murder as stated have been proved and no negligence has been proved to sustain a conviction of culpable homicide. They argue that the accused says that her intention was to burn down the house and not the deceased and that her evidence in this regard has not been controverted. And yet it is her actions that caused the deceased to burn.

[52] PW1 stated that he was asleep with the deceased when they were awoken by the breaking of the windows and the opening of the door. A crowbar was used to open the door. As the door opened he saw the Accused and at the same time the deceased was walking towards the door to see what the fracas

was about. The Accused threw what we now know to be paraffin on the deceased. PW1 was close behind the deceased. I believe this evidence by PW1.

[53] He then says that the Accused took a knob stick and hit the deceased with it but the deceased dispossessed her and chased her with it. I believe his evidence. Thereafter he ran away and skipped over the fence and watched from 50 metres away until the deceased was set alight and then he was sent away to go call Nora. When he returned the fire had been put out.

[54] After conducting an inspection in loco I agree that from where he was standing 50 metres away he could not have seen a match being lit and thrown at the deceased. He may have seen the newspaper flame and when the deceased became enveloped by the fire. I accept that he did not see the origins of the fire and how the newspaper was thrown into the house. He was too far even if there was moonlight.

[55] PW2 testified that while she, PW3 and DW2 were separating the deceased and the Accused, the Accused took a newspaper lit it and threw it into the deceased's house. When she threw it, the deceased tried to block the

burning paper but it stuck on his arm and he was set alight. She further stated the deceased was near the open door but on the inside.

[56] PW3 testifying about the events that occurred when she, PW2 and DW3 were outside where the fight was taking place stated that after a short while she saw the Accused carrying a lit newspaper which she threw and it fell on the floor and the deceased caught fire from that lit newspaper. She too says that the deceased was standing inside the door of his house.

[57] DW2 testified that while he was questioning the deceased as to what was happening he heard PW2 and PW3 saying to the Accused “no mom! no mom! He turned around to see what was happening and he saw the Accused carrying a newspaper which was already lit. She was already close to the doorstep right next to DW2.

[58] She tried to throw the paper above his head into the door but he raised his hands and blocked it. She then threw it between his open legs into the house. DW2 tried to pull the paper out of the house and the deceased also bent towards the paper trying to deflect it away from the house and as he did so he was set alight.

[59] The Accused testified that when she went to the deceased's home she took a bush knife and a bucket of paraffin. She cut the electricity cable which supplied his house with electricity. She found a crowbar next to the maize crib. She broke the windows with the crowbar and she pushed the door open using the crowbar. She then threw the contents of the bucket onto his clothes which were hanging from a makeshift rope suspended between two walls (umgibe). The deceased suddenly appeared within the house carrying a weapon whose make she could not tell as it was dark. She stated that when she poured the petrol she did not take note from which direction he was coming from inside the house. When Mr. Mabila asked her when she poured his things with paraffin was the deceased inside his house. **She responded that she did not check for his whereabouts.** Thereafter she says that she ran back to her house.

[60] Further on she says that when she found the match she struck the matches and lit a newspaper which she threw into his house. She threw it through the open door as she was standing in front of it. When she threw it Senzo deflected it and it fell on the steps. She turned and went to her car.

[61] When the Court conducted the inspection in loco at the Vilakati homestead the deceased's home was found to have one door and a window opposite the door and another window on the left wall as one stood at the doorway. The room measured 7 x 5 paces. The door is equicentre to both right and left walls when standing at the door. When one stood at the door the bed was beside the left wall beneath the left window and the **mgibe** along the right wall. At the end of the **mgibe** in the corner was an assortment of traditional weapons.

[62] DW2 says that he was **talking to the deceased when the Accused threw the burning newspaper**. So the Accused knew where the deceased was that is behind Senzo at the entrance of the door. She is not being truthful when she says that when she threw the lit newspaper into the house she did not know where the deceased was.

[63] Had she just wanted to burn the deceased's clothes she could just as easily thrown the lit newspaper through the broken window which was opposite the door. It is almost equal in distance as was the door. She threw it through the door because she wanted to set the deceased alight. DW2 deflected it

and was not set alight. She threw it between his legs and he was not set alight.

[64] The medical report (Exhibit B) states that the deceased had suffered burns to both his upper limbs, his head, his torso, and the inner part of both the thighs. PW2 and DW2 say as soon as he came into contact with the lit newspaper he burst into flames. PW1 says that the Accused threw the inflammable liquid at the deceased. This would explain the burns being concentrated on the upper torso.

[65] The post-mortem report (Exhibit A) states that the deceased died due to complications of burns. At item 20 it states that the deceased had dermo-epidermal (skin deep) burns present all over the body (100%). The 100% burns translate to non-recovery of the patient in medical terms.

[66] I have no doubt in my mind that the accused threw the paraffin onto the deceased while she was in his house and she knew that he was in his house. It is a lie that she threw the paraffin onto his clothes. That when she threw the lit newspaper she knew that he was wet with paraffin and that he would be set alight. She knew that he was at the door of his house just as her



children have testified. PW2 and PW3 tried to stop her when they saw her carrying the flame and divining her intention shouted to her to stop but she did not. But in her anger she was hell bent on setting the deceased alight.

[67] She says that she wanted to set the house alight so that the deceased would no longer have a place to stay. Even if that were true, she ought to have known that the deceased was in the house and ought to have foreseen that her action would have fatal consequences upon the deceased.

[68] However, to her benefit the evidence shows an altercation between the two running between the two houses an assault of the deceased with a knob-stick by the accused, assaults of the accused by the deceased with some knob-sticks and a spear, chasing of the deceased with the car, setting the deceased alight.

[69] There is also a history of bad blood between the accused, her mother in law and her sisters in law who wanted to evict her from her home. The relationship between the accused and her father in-law (the deceased) which was at first good had turned sour. Because the deceased began carrying tales

to her husband about her which caused her husband to not sleep at home but with girlfriends some of whom she knew.

[70] The accumulation of the above incidents would cause any reasonable person to disintegrate and fall apart. Contrary to the Crown's submissions the bad relationship between the accused and her in-laws was put to PW1 in a wide ranging cross-examination by Mr. Mabila. The police officer who responded to the scene correctly termed it a report of domestic violence, this time between the accused and her father-in-law.

[71] In the circumstances I do not think that the accused had the requisite intention to kill the deceased. She is acquitted of the charge of murder and is found guilty of culpable homicide.

## **JUDGMENT ON SENTENCE**

### **Personal circumstances**

[1] In mitigation of sentence her husband Zephaniah Vilakati stated that he has been married to her since 1982. He regretted what had befallen their family.

He stated that the accused family had apologized to his family and that the apology had been accepted by his mother but not his sisters.

[2] He testified that the Accused was very helpful at home and in the community by helping orphans and at community funerals. They have three children with the accused and in addition she looks after five other children. He bemoaned the fact that he was not at home on the fateful day because he would have prevented the crime.

[3] Mr. Mabila in addition added that the Accused was 52 years old and was a primary school teacher. That she had been a teacher for 29 years. That she had been married to Mr. Vilakati since 1982. That she had never committed a crime. That she was faithful to her bail conditions. That upon her release on bail she had stayed away from her marital home for two years, this being a bail condition that was imposed on her by the Court.

[4] That she had a good relationship with the deceased before the acrimonious relationship started. That the death of the deceased is in itself punishment for her because he was a relative namely a father to her husband and grandfather to her children. That the deceased was the aggressor. That

when she was arrested she recorded a confession freely and voluntarily. That she showed remorse.

### **The victim**

- [5] The deceased was an adult male 60 years old. He was married with grown up children save for PW1 who was 13 years old when the deceased died. He died a horrific death as described in the medical report (Exhibit B). The post-mortem report shows that the deceased was badly burnt and would not have recovered. The offence qualifies as a domestic violence case. The evidence shows that after the deceased came to live full time with the Accused and her family, there was no peace between him and the Accused. In the past when he lived with a girlfriend at Siphofaneni and used to visit, they had a good relationship. She even offered him the comfortable room that he lived in when he lived with them permanently. The evidence also shows that her relationship with her brother-in-law and sister's in law was acrimonious and tumultuous.

### **The crime**

- [6] Domestic violence is insidious, it smothers quietly over time and when it explodes it exhibits dire and unintended consequences. This is what

happened in this family who seemed to be a nice amiable middle class family who unfortunately did not get on as they would occasionally have spats in front of me.

[7] However, a life was lost and the Court cannot lose sight of the fact that the Accused committed this horrific crime and she has to be punished for it. The interests of society should be taken into account and that offenders should be punished so that would be offenders are deterred from committing crimes even if they are based on domestic difficulties. I am told by Mr. Dlamini that she is a first offender and has no previous convictions.

[8] In passing sentence I have taken into account all the above factors and submissions. In the event the Accused is sentenced to seven (7) years imprisonment without an option of a fine, two years of which are suspended for two years on condition the Accused is not convicted of any offence of which assault is an element.

**Q.M. MABUZA  
JUDGE OF THE HIGH COURT**

For the Crown : Mr. S. Dlamini  
For the Accused : Mr. Mabila