



## **IN THE HIGH COURT OF SWAZILAND**

### **JUDGMENT**

**HELD AT MBABANE**

**CASE NO. 259/13**

In the matter between:

**REX**

VS

**NCAMISO SIMISO MBUYISA**

Neutral Citation : Rex vs Ncamiso Simiso Mbuyisa  
(259/13) [2019] SZHC 193 (26<sup>th</sup> November  
2019)

Coram : MABUZA - PJ

Heard : 2017; 2018; 2019

Delivered : 26<sup>th</sup> November 2019

### **SUMMARY**

**Criminal Law - Accused charged with the crimes of Murder and Theft of complainants' belongings - Pleads guilty to both crimes - Court enters plea of not guilty to murder - Evidence led as to the commission of the offences - Accused found guilty as charged.**

## **MABUZA -PJ**

[1] The accused stands charged as follows:

### **COUNT 1**

The accused is guilty of the crime of **MURDER**.

In that upon or about the 23<sup>rd</sup> May 2013 and at or near Mpolonjeni area in the Hhohho Region, the said accused did unlawfully and intentionally kill one **ZAMA DUBE** and did thereby commit the crime of **MURDER**.

### **COUNT 2**

The accused is guilty of the crime of **THEFT**.

In that upon or about the 23<sup>rd</sup> May 2013 and at or near Mpolonjeni area in the Hhohho Region, the said accused person did unlawfully and intentionally steal the under listed items all valued at **E1 320.00 (Emalangeneni One Thousand, Three Hundred and Twenty)** which were the property of or in the lawful possession of the said **ZAMA DUBE**.

### **SCHEDULE OF STOLEN ITEMS**

1. Nokia Asha cell phone valued at E800.00;
2. Nokia cell phone 1600 valued at E400.00;
3. Skin top T-Shirt valued at E120.00;
4. Bundle of keys
5. Swazi Identity Card for Minnah Mnyakambi Dvuba

Total value of **E1 320.00**

- [2] The accused pleaded guilty to both counts. The crown accepted both pleas and the accused lawyer Mr Hleta confirm the pleas as being consistent with his instructions. However, the court entered a plea of not guilty in respect of count 1.
- [3] The Crown led seven (7) witnesses and the defence one witness; the accused.
- [4] Dr K Reddy (PW1) is the government pathologist. He conducted a post-mortem on the deceased. He testified that the cause of death was due to multiple stab wounds. That the deceased was stabbed 55 times. That she was 3<sup>1/2</sup> months pregnant. That she was identified by her brother Dennis Musa Tshabalala. PW1 stated that the deceased had no chance of survival. He handed in the post-mortem report as Exhibit A in which he had recorded his findings in detail.
- [5] PW2, Sonto Irene Ngwenya testified that the deceased was her cousin.

She stated that on the 23<sup>rd</sup> May 2013, she received a text message from the deceased stating that she was going to kill herself. The message read as follows:

**“I hope the grass is greener on the other side, ilife ingehlulile and I love you”**

- [6] She immediately went to umphakatsi (the Royal Kraal) at Mpolonjeni where the deceased lived. She knocked but there was no response. She requested the herd man to open the door. He was able to open the front door only to find the bedroom door locked.

[7] PW2 called her brother Mandla to render assistance. Upon his arrival he knocked on the bedroom door and there was no response.

He obtained a ladder and used it to peep over the door as the house had no ceiling. When he came down, he reported that the deceased was lying on the floor near the door. He phoned the police but PW2 left before they arrived.

[8] She stated that she knew the accused; he was her sister's child. And that the deceased and the accused were involved in a love relationship.

[9] She testified that she was present on the following day when the accused pointed out things belonging to the deceased which were retrieved from a pit latrine. These were keys for the house (front door and bedroom door, which she had found locked the previous day. There were identity cards belonging to the deceased and her grandmother, an iNokia cellphone belonging to the deceased and another which belonged to her grandmother which the deceased used to use. A blue T-shirt belonging to the deceased was also recovered and simcards.

[10] She identified these items before court and stated that her relationship with the accused was good.

[11] Upon cross-examination, she stated that the deceased informed her of her relationship with the accused during October 2012. The accused was also from Mpolonjeni and that the accused and her (PW2) resided at the same homestead.

[12] She told the court that the deceased informed her during May 2013 that she was pregnant and that she was three months pregnant. The deceased also informed her that she had told the accused about the pregnancy but the accused had denied paternity.

- [13] She told the court that she had known the accused since childhood and that he was a quiet person who did not associate much with friends. That he was friendly and worked piece jobs. She had never seen him drunk.
- [14] She stated that the deceased had told her that she was contemplating committing suicide on two separate occasions because she was afraid about what the community would say about her pregnancy. The deceased did not reveal to PW2 how she would carry out the suicide.
- [15] PW3, Elita Nkuna Khumba stated that she and the deceased worshipped at the same church. She had last seen the deceased on a Wednesday night after 8pm. PW3 could not recall the date and month she had last seen the deceased. She stated that they were from church and they had dropped the deceased off and waited for her to enter her house. The deceased went to a window inside her house and bid PW3 farewell through the window. That was the last time that she had seen the deceased.
- [16] PW4, Mpumelelo Lokotfwako, testified that he knew the accused from Mpolonjeni that they attended the Roman Catholic together. He recalled that on the 24<sup>th</sup> May 2013, the police arrived in the company of the accused and asked PW4 to accompany them. They went to a Ngwenya homestead where the accused was staying. Upon arrival there, the accused took them to a nearby bush where he pointed out cellphones which were hidden under the grass.
- [17] From there, the accused took them to a pit latrine where he pointed out an ID card and keys to a house. The police took these items.
- [18] One cellphone was a small Inokia and the other one was large and black and white. The accused demeanor was fine, he had not been assaulted.

- [19] He was asked in cross-examination by Mr Hleta how long the accused had lived at Mpolonjeni. PW4 replied that he did not know because he (PW4) was a relatively new resident since 2008 whereas the accused lived at his parental home. And that he (PW4) had been a community policeman since 2010. He had not handled any crime that had been committed by the accused. He did not know why the police had requested that he accompany them and the accused during the pointing out.
- [20] Mr Hleta asked PW4 if the police had said anything to the accused before he began the pointing out. He replied that the police only told the accused to show them the items which he did.
- [21] PW5, was Haigtebatso Sedibe from the Forensic Science Laboratory, Pretoria, South Africa. He presented the DNA evidence after he had stated his qualifications and experience in the field. He stated that he had 14 years' experience in the field and that when he prepared the report (Exhibit B) he had 10 years' experience. He handed in Exhibit B after stating that the blood stains and or spatters found on a jean trouser received by him matched the deceased's DNA. His evidence placed the accused at the crime scene and was not challenged by the defence.
- [22] PW6 was 3444 Detective Sergeant Patrick Mhlanga from the Eswatini Royal Police. He testified that he is a scenes of crime officer and that on the 23<sup>rd</sup> May 2013, he was called to attend a crime scene at Mpolonjeni Royal Kraal.
- [23] Upon arrival he entered into one of the houses where he found the deceased's body which was half naked and full of blood. She was facing up and had many injuries on her upper body and her throat was slit. There was a big knife with a brown handle next to her. He took

pictures of her, swabs of her blood and the knife. After he had finished her body was removed and taken to the mortuary.

[24] On the 24<sup>th</sup> May 2013, PW6 was instructed to revisit the scene. There were other police officers and the accused and some exhibits. These were: an orange knife from the accused's house, two cell phones (one Inokia and one black one) obtained from the accused near his home; some keys (two bundles) from a pit latrine; ID card of Minah Dube; 2MTN simcards; and 1 blue lady's T-shirt. He photographed these items.

[25] On the 27<sup>th</sup> May 2013, PW6, received some Exhibits from 4417 Detective Sergeant Mahlalela.

[26] On the 29<sup>th</sup> May 2013, PW6 attended the post-mortem of the deceased conducted by PW1. He took photographs of the deceased as well as her 3<sup>1/2</sup> month old foetus. He also obtained blood samples from the deceased, her pink night dress and navy blue gown. The exhibits were ultimately sent to the forensic laboratory in Pretoria for DNA profiling. He identified the exhibits handed them into court as part of his evidence. These were identified and marked as follows:

- 1 Ordinary knife                      Exhibit 1
- 1 Pink nightdress                      Exhibit 2
- 1 Navy blue gown                      Exhibit 3
- 2 Cell phones                          Exhibit 4
- 2 Bundles of keys                      Exhibit 5
- 1 Ladys blue T-shirt                  Exhibit 6
- 2 Sim cards                              Exhibit 7
- 1 Orange knife                         Exhibit 8
- 1 ID card (Minah Dube)                Exhibit 9
- 1 Photo album                         EXC 1-28

[27] On cross-examination, PW6 reiterated that the pointing out was conducted on the 23<sup>rd</sup> May 2013 and 24<sup>th</sup> May 2013. He further

confirmed that the orange knife was pointed out by the accused under the bed in his house. And the second brown knife was found near the deceased at her home. PW6 handed in the photographs which were marked exhibit.

[28] PW7 was 4417 Detective Constable George Mahlalela, the investigating officer. He testified that on the 24<sup>th</sup> May 2013, he received concrete evidence that the accused was responsible for the death of the deceased and he arrested the accused. Before the arrest and pointing out he cautioned the accused in terms of the judge's rule.

[29] He stated that the accused was very co-operative during investigations. Before the pointing out, PW7 requested an independent witness, PW4, Mpumelelo Lokotfwako to accompany the police and the accused.

[30] The accused took PW7 and other police officers to a bush near his home where he retrieved a black plastic bag which had two cellphone an Inokia, usher 354558056273484 and a second one (1600) 3536551018407208. After that the accused took them to a pit latrine at his home where some exhibits were retrieved inside the toilet. These were two simcards, two bundles of keys, a blue female skipper, an ID for Minah Dube.

[31] PW7 testified that his investigations led him to the home of the accused where he confiscated a golf T-shirt, 1pair blue jeans, 1pair grasshopper shoes and 1 leather jacket (belonging to the accused) for forensic analysis.

[32] He returned to the deceased's home where he tested the keys that he had found in the toilet at the accused's home. One key opened the main door (N101) and another (M32H) opened her bedroom door. The golf T-shirt, keys, cellphones and ID belonging to Minah Dube were identified by PW2, as belonging to the deceased.



[33] PW7 also obtained blood samples from the accused per court order obtained from the Magistrate's court. These were sent to the forensic laboratory for analysis together with the following:

- Knife with orange handle
- Golf T-shirt
- Blue jeans
- 1 Pair black grasshopper shoes
- 1 Blue female skipper
- 1 Black leather jacket.

[34] He charged the accused for murder and theft as per counts 1 and 2. He also did a dock identification of the accused. He handed the exhibits into court as part of his evidence after identifying them. These were Exhibits 1-11 as per the evidence of PW6.

[35] It was put to him in cross-examination that the accused never gave the police permission to search his home but PW7 denied this. It was also put to him that the orange knife was found by officer Mavuso among the accused things. PW7 replied that he had found the knife. It was put to him that the police removed a box of condoms that had not been used. PW7 denied this and said that he had taken a used condom for DNA profiling.

PW7 confirmed that the pointing out was carried out on the 24<sup>th</sup> May 2013 and that the shoes, golf T-shirt and jeans were confiscated on the 24<sup>th</sup> May 2013. And that the accused was arrested on the 24<sup>th</sup> May 2013.

[36] The Crown closed its case after the testimony of PW7. The defence opened its case with the testimony from the accused.

[37] The accused (DW1) stated that he was 27 years old, having been born on the 27<sup>th</sup> December 1990 at his maternal home at Mpolonjeni. His

formal schooling was up to Grade 7. He was 22 years old when the incident in this case occurred. And that he used to do piece jobs.

[38] He testified that the deceased was his girlfriend. They began their relationship during May 2010.

[39] DW1 testified that on the 23<sup>rd</sup> May 2013 at around 8.00am his uncle, Mandla Ngwenya called him to his homestead. DW1 was in the company of his younger brother, Nhlanhla Ngubeni. Mandla informed them that an incident had occurred whereby the deceased was killed.

[40] They did not respond because the news shocked them. They decided to go to Umphakatsi. Upon arrival there, they did not enter but instead went to the local shop and thereafter returned home.

[41] On the 23<sup>rd</sup> May 2013 the police arrived and introduced themselves and informed him that they were investigating the murder of the deceased. They wanted to know if DW1 knew anything about it. He responded that he had heard about it. They told him that they were looking for Ncamiso Mbuyisa, he replied that he was Ncamiso Mbuyisa.

[42] The police asked to search his room and he agreed. There was a shoe box in which he kept his belongings. A Mavuso officer emptied the contents of the shoebox onto his bed. There was a knife, condoms, sweets and a nail clipper. They took the condoms saying that the packaging was similar to a used condom that they had found in the house of the deceased. They bagged the condom, and the knife and confiscated them. They went with DW1 to the police post at Mpolonjeni.

[43] A police officer called Sihlongonyane interrogated DW1 and asked why he had killed the deceased. He replied that he did not kill the

deceased. Thereafter, he was taken to the Mbabane police station and placed in the police cells.

[44] On the following day he was taken back to Mpolonjeni police post. Thereafter, he was returned to the Mbabane police station.

[45] The accused began his evidence on the 13<sup>th</sup> March 2018, but did not complete it. The court adjourned and resumed on the 17<sup>th</sup> June 2019. On this date, he had new counsel in by the name of Attorney Mr S.K. Dlamini. He was cross-examined by Mr Mngomezulu for the crown.

[46] Accused confirmed that he and the deceased were blood relatives. He also informed the court that the deceased did not tell him that she was pregnant. His aunt, PW2 informed him. She in turn had been informed by the deceased.

[47] He says that at first he did not believe it when PW2 informed him. He decided to ask the deceased and she confirmed that she was pregnant by him. He says that he was shocked because he did not yet have any children. He admitted paternity. He was told that PW2 had testified that he had denied paternity to her and he replied that he did not say anything to her after PW2 had informed him.

[48] DW1 was informed that according to Swazi law and custom relationships between close relatives was taboo and that is why the relationship with the deceased was only known by the two of them and PW2. He denied this and stated that his two brothers, aunt and Mandla were aware of it.

[49] It was put to him that because he did not want to accept paternity, he decided to kill the deceased so that it could not be discovered that he had an affair that had led to pregnancy of the deceased.

[50] His response was that he did not deny paternity and that he did not kill the deceased.

[51] It was put to him that in order to conceal his evil deeds he then used her cell phone to send messages that indicated that she was suicidal. He denied this and responded that when the police took him to the Mpolonjeni police post on 23<sup>rd</sup> May 2013, they pointed at a black cell phone, an inokia usher which was on the table and asked who the owner was. He replied that it looked like the deceased's cellphone. Officer Bhembe then asked why he had denied killing the deceased because he was able to identify her cellphone. DW1 responded that he did not know what had happened to the deceased that the cellphone merely looked like hers.

[52] The police then asked him what he normally did when he was alone at home and he replied that he usually went to the bush to train.

[53] On the 23<sup>rd</sup> May 2013, he spent the night at the Mbabane police station. On the morning of the 24<sup>th</sup> May 2013 he was taken back to the Mpolonjeni police post where he was asked to take the police to the bush where he used to train and he agreed.

[54] After that they returned to the Mbabane police station with DW1. He says that officer Mahlalela was instructed to get the necessities. He returned with a plastic bag which had ropes inside. The police forced him to read a chart which said that he would pay for his crimes.

[55] The police then tied him onto a bench and suffocated him with a plastic bag and told him that he had killed the deceased. He was suffocated several times and told that after killing the deceased he had taken her body to her room and took her cellphone in an effort to conceal evidence. He denied having killed the deceased.

- [56] The police then asked him where the deceased's keys to her room were and he said that he did not know where her keys were. They asked him if they would not find her keys if they conducted a search of his house. He replied that they would not find them because they were not there.
- [57] They untied him from the bench and an officer struck him with a chain and said they were proceeding to the spot in the bush where he normally trained. When they got to the Royal Kraal at Mpolonjeni, the police requested PW4 to accompany them to DW1's home and to his training spot in the bush.
- [58] He says that when the police took him to his training spot in the bush they pointed at grass and asked him what was there. He replied that he did not know. They told him to retrieve a black plastic bag which he did. They told him to open it and he did. Inside there were two cellphones. They asked who they belonged to and he said to the deceased. They asked how he knew and he replied that she was the only one who had similar cellphones. The police took the cellphones with them.
- [59] He says that from the bush they proceeded to his home. When they got there he was told by the police to proceed to the toilet and when he asked what they were going to do there, Sihlongonyane said for a pointing out.
- [60] When they got to the toilet only DW1, Sihlongonyane and Mandla entered as the toilet was small. He says that the police wanted to know what he had hidden in the toilet. He replied that he had not hidden anything there as a lot of people used the toilet including Mandla, PW2 and his two brothers.
- [61] Because the toilet was small and dark, the police instructed that the zinc roof be removed and they asked for a ladder which an officer used

to climb down into the toilet. He threw up some keys and a powder blue T-shirt, deceased ID card and deceased's granny's ID card as well as two sim cards. The police took these items away. They also asked for the clothes that DW1 was wearing on the previous day.

[62] DW1 was subsequently arrested and charged with murder and theft.

[63] He was cross-examined by Mr Mngometulu. He was asked why he did not put to the police officer the fact that he was tortured. He responded that he did not ask the officer because he thought that was how investigations were conducted by the police.

[64] It was put to him that he wanted the court to believe that he did not know anything about the cellphones and yet he had pleaded guilty to theft of cellphones.

[65] His response was that he had been instructed by the police to point out the cellphones and yet they had emerged the previous day at the police station. And that he had pleaded guilty to theft because officer Mahlalela had pointed out the items (i.e. planted evidence).

[66] It was put to him that he had killed the deceased and locked her inside her room. After that he then used her cellphone to send messages to her relatives in a bid to conceal evidence of her killing. He denied this.

[67] It was put to him that the evidence of the pointing out was not challenged and that this showed that the correct procedure was used. He denied this and even stated that he was never cautioned in terms of the judge's rules. He said that he only pointed out the pit latrine and not the keys and cellphones.

[68] In re-examination he explained that when he pointed out the pit latrine he did not know what was inside. And that the police did not tell him

what was inside the toilet. He only saw the items after the police officer had retrieved them.

[69] Of the items that were retrieved at the training spot in the bush he says that he was not aware of the plastic bag and its contents. He further stated that the phones were not opened in his presence so he was not privy to the suicidal messages he is alleged to have sent. Nor were they ever opened in his presence at all. Asked why he failed to ask officer Mahlalela about him being tortured, he replied that he thought that Mahlalela would mention it first and then he would have asked him. Thereafter, the defence closed its case.

[70] Has the Crown proved its case beyond a reasonable doubt?

[71] The evidence in respect of the murder of the deceased is mainly circumstantial and this calls for inferences to be drawn therefrom.

[72] In the case of Rex Vs Blom 1939 AD 188 at 202-3 Watermeyer J.A. had this to say:

***“In reasoning by inference there are two cardinal rules of logic which cannot be ignored:***

***1) The inference sought to be drawn must be consistent with all the proved facts. If it is not, the inference cannot be drawn.***

***2) The proved facts should be such that they exclude every reasonable inference from them save the one sought to be drawn. If they do not exclude other reasonable inferences, then there must be a doubt whether the inference sought to be drawn is correct.”***

[73] The accused had motive to killing the deceased -. She fell pregnant and he denied paternity because he did not want to take responsibility.

A baby would have meant financial responsibility on his part. So he had to get rid of the baby and its mother. The fifty five (55) stab wounds inflicted mainly on her abdomen were meant to kill the baby. Such rage is unprecedented. Indeed he killed the deceased and the baby and was consequently free of guilt and financial responsibility.

- [74] The deceased was his cousin and having sex with a cousin is taboo in Siswati culture. What would people say if they saw her pregnant with his child?. So he got rid of her.
- [75] The deceased was the chief's niece who lived in the Royal Kraal. She was no commoner. He would have had to man up, pay damages for impregnating her, pay damages for the child and pay child support.
- [76] There were blood spatters from the deceased on his jeans. He did not explain how the blood spatters got there.
- [77] He pointed out all the items stated in count 2 to which he pleaded guilty. No one coerced him to point out the items and these belonged to the deceased. He did not explain why he had the deceased's things or why he had hidden them in the bush and in the pit latrine.
- [78] As an afterthought he suggested that the police had planted these but that cannot be true. How would the police have known his training spot in the bush or even the whereabouts of the pit latrine where he led them?
- [79] Having set out the above, the only inference to be drawn is that was the accused that killed the deceased. After killing her, he locked her inside the room and then sent suicidal messages to PW2 under the pretext that they were sent by the deceased. He then threw her house key in the pit latrine and hid the cellphone in the shrubs near his homestead.
- [80] In light of the above, it is clear that the crown has satisfied the cardinal rules of logic set out in the Blom case. I am satisfied that the crown has proved its case beyond a reasonable doubt.



[81] In the event the accused is found guilty of the murder of Zama Dube and is accordingly convicted of murder. The accused is also found guilty in respect of theft as set out in count 2 and is accordingly convicted of theft.

### **Sentence**

[82] Having convicted the Accused of the crime of murder. I now have to sentence him. The Crown confirms that he is a first offender and has no previous convictions.

### **Extenuating Circumstances**

[83] Counsel for the Accused submitted as follows:

a) The Accused was born in 1990 and this offence was committed in May 2013. It is apparent that at the time of commission of the offence, the Accused was about 23 years of age. Though he was above youthfulness age of 18 years, it is apparent that at that age, he would not be matured to a state that all his decisions are up to a standard of a completely matured and/or reasonable man. Immaturity and/or youthfulness would inadvertently creeps in. The Accused again is semi-illiterate as he only ended in Grade 7 in terms of his educational background.

b) Impregnating cousin - Taboo in SiSwati Culture

The evidence led was to the effect that Accused person was a blood relation to his lover, the deceased. Having sexual intercourse and further impregnating a relative is something not accepted by traditions in this country. The Accused became uncomfortable after it was reported to him that he had impregnated his relative. If a child would be born, his hidden relationship would be publicly known.

At his age, the Accused would not make a mature decision and take full responsibility of his actions. He could be reprimanded, excluded from the family and be punished, considering that he had impregnated Chief's daughter.

- c) The Supreme Court in Adams v R (16/2010) [2010] SZHC 10, stated:

*“In our view an extenuating circumstance in this connection is a fact associated with the crime which serves in the minds of reasonable men to diminish, morally albeit not guilty, the degree of the prisoner’s guilt”.*

- d) It is humbly submitted that the factors as adumbrated above, cumulatively, has a bearing in the Accused’s state of mind at the commission of the offence. The Accused was young and therefore susceptible to immaturity, coupled with the other factors that he had impregnated a Chief’s child, young as he is; unemployed; the lady being his relative; he has to be responsible; definitely, he would act with immaturity.

It is submitted that this Honourable Court find extenuating circumstances to exist in this matter.

[84] I agree with learned Counsel’s submissions and accordingly find that extenuating circumstances exist herein.

## **Mitigation Circumstances**

[85] In mitigation the following submissions were made on the Accused’s behalf:

### **Personal Circumstances**

- (a) The Accused is about 27 years of age, a first offender and has pleaded guilty to the charge as a sign of remorse. He is unemployed and would normally make a living through handy jobs. He dropped out of school due to lack of finances, and through his handy jobs. He would assist his unemployed parent.

(b)The Accused had got no child; no wife. He is a young man who can meaningfully contribute to the community, could this Honourable Court gives him a second chance to live in the society. He is not a hardcore criminal. Apparently, he had spent a longtime in prison after his arrest regarding this offence and as such, had learned his lesson.

(c)It is humbly submitted that he could easily be rehabilitated if he is not given longer years in prison. He committed the offence while he was in a range of immaturity age.

(d)This Honourable Court is humbly implored to extend mercy in the sentencing and to give the Accused a second chance to contribute in the society in future. The Honourable Court is implored to give reliance to the cases of: Simanga Mabaso v Rex (24/13) [2014] SZSC 10, 15 years imprisonment upon establishing extenuating circumstances was ordered by the Supreme Court. And also Sibusiso Goodie Sihlongonyane v Rex (14/2010) [2011] SZSC 45; Mbuso Likhwa Dlamini v Rex (03/2014) [2014] SZSC 27.

[86] In passing sentence I shall take into account the Accused's personal circumstances as set out above, there are others factors that I have to take into account.

### **The Nature of the Crime**

[87] This was a brutal murder. The deceased was 3<sup>1</sup>/<sub>2</sub> months pregnant. She was stabbed 55 times and the baby that she was carrying died with her. She was left to bleed out in her house.

### **Interests of Society**

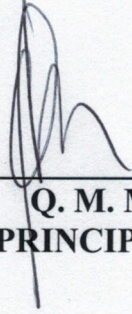
[88] The crime of murder is so prevalent in our society that the courts have to mete out sentences that will deter would be offenders from committing it.

[89] The Accused was arrested on the 24/05/2013 for this crime. He was released on bail on the 19/04/2016 (35 months).

Bail was revoked on the 15/08/2017 and he has been in custody since then i.e. 27 months and 25 days.

[90] In the event the Accused is sentenced to thirty (30) years imprisonment without an option of a fine. The period of 62 months and 25 days is to be deducted from his sentence.

TMBABANE  
Crim. Case No. 1



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**Q. M. MABUZA**  
**PRINCIPAL JUDGE**

For the Crown : K. Mngomezulu

For the Accused : S.K. Dlamini