

CRI/A/25/82

IN THE HIGH COURT OF LESOTHO

In the Appeal of :

MOTHONYANA RALETING                      Appellant

v

R E X                                      Respondent

REASONS FOR JUDGMENT

Appellant in Person  
Mr. Khauoe for the Crown.

Delivered by the Hon. Mr. Justice F.X. Rooney  
----- on the 6th day of July, 1982. -----

On the 4th June, 1982, I dismissed this appeal and I increased sentence passed upon the appellant. I now give my reasons.

The appellant, who is a youth of 18 years, was convicted by Mr. G.H. Mphahle of the crime of rape. Although he appealed to this Court against his conviction, I am satisfied that his appeal was without merit. That magistrate had before him substantial evidence indicating the guilt of the appellant.

The appellant is one of a gang of three youths who on the 23rd of January, 1982 waylaid and set upon the complainant, a girl of 18. She was raped by all three men in broad daylight. A man who saw what was happening did not come to the unfortunate girl's rescue because he feared her assailants. Medical evidence confirmed the complainant was a virgin before she was attacked.

In passing sentence, the magistrate took into account that the appellant was a first offender but he

added : "The mode he perpetrated this rape was barbaric and showed disrespect of humanity".

He went on

"Other considerations are that in my only two months stationed in Mafeteng district, I have presided over five rape cases committed by the youths of this district mostly in the same disrespectful manner as the appellant. As a deterrent and stoppage of rapists rampage severe sentences will have to be adopted".

I agree with the magistrate that this was a shocking case and I am surprised that he considered 18 months imprisonment a sufficient punishment in the circumstances. There should be no doubt as to where the courts stand in the matter of rape. It is a serious crime. In extreme cases the High Court has power to impose the death penalty upon a convicted offender. Young men who commit rape should not imagine that the courts will be indulgent to them on account of their youth. If the crime is committed in like circumstances/<sup>as</sup> those revealed by this case they can expect no mercy. For these reasons, I took the view that the magistrate's sentence was far too lenient and was inadequate to bring home to the appellant and others of his kind the gravity of their conduct.

I therefore increased the sentence to one of three years imprisonment.

F.X. ROONEY  
JUDGE

6th July, 1982.

Attorney for the Crown : The Law Office.