

CRI/A/15/82

IN THE HIGH COURT OF LESOTHO

In the Appeal of :

MOHLALEFI LOTI                      Appellant

V

R E X                                  Respondent

J U D G M E N T

Delivered by the Hon. Mr. Justice M.P. Mofokeng  
on the 14th day of July, 1982.

The appellant was charged before the Subordinate Court of Butha-Buthe with the offence of assault it being alleged that upon or about the 3rd June, 1981 at or near Mashili's he unlawfully and intentionally assaulted one Monafu Moloi by pointing a firearm at him thereby causing him to believe upon reasonable grounds that he was able to perform his present ability. To this charge he pleaded not guilty but was eventually found guilty and sentenced to pay a fine of M50.00 or in default of payment to undergo imprisonment for a period of 5 months. Half this sentence was suspended for a period of three years on certain conditions. He appeals against such conviction and sentence.

/In this

In this judgment Monafu Moloi shall simply be referred to as the complainant and the appellant as the accused.

The Crown's evidence is simply that when the complainant and the accused met, in the forest, the latter drew a pistol and pointed it at the former. The accused was in an angry mood and issued insults at the complainant. He threatened her with the pistol. The complainant believed that the accused would carry out his threats. When the accused so threatened the complainant, he had no right to do so as the forest did not belong to him but rather to the complainant's family. The accused on the other hand that he was never where the complainant alleged. He called witnesses to bear him out but they let him down very badly. Some of his witnesses, whom he said he was with at the relevant time, swore under oath, that they were never with him! The learned magistrate saw and heard all the witnesses give evidence before him. He observed their demeanor. He was thus in a better position to judge whether they told the truth or not. He believed the Crown witnesses albeit the minor discrepancies in their evidence and totally rejected that of the accused and his witnesses. This is not a case where this Court can interfere. In the premises, the appeal is dismissed.

*K. M. M. K. - v*  
J U D G E .

For the Appellant : In person  
For the Respondent : Mr. Kabatsi.