

IN THE HIGH COURT OF LESOTHO

In the Appeal of :

VERONICA KUTLO PEFOLE 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 23rd day of August, 1982

The appellant was charged in the subordinate court of Maseru, with the crime of fraud. She pleaded guilty and after the prosecution had stated the facts as disclosed by the evidence in its possession, she was duly found guilty and sentenced to four (4) years' imprisonment of which half was suspended on certain conditions. It is only against the sentence that she appeals to this Court.

The facts are simply that the appellant was employed by the Standard Bank, Maseru and in charge of the Savings Accounts Section. One of her duties was to supervise the opening and the closing of the Saving Accounts. One Mendes had such an account. There was an amount of M9,099.48 to his credit. Appellant instructed her subordinates to prepare the necessary papers for the closure of the account. She signed the withdrawal form and received the said amount. This money has not been recovered. Appellant was arrested. She made a voluntary confession to a judicial officer.

/In

In mitigation of sentence she spoke of having given the money to a Mrs. Soares whom she was supposed to owe an amount of M2,100. What happened to the balance of the money is not quite clear but she says she gave it to Mrs. Soares to "keep it for herself" so that she must not "talk about me in the village." But Mrs. Soares knew what appellant intended doing and helped her gather the necessary information.

The first three grounds of appeal were specifically referred to by the learned Chief Magistrate in his impromptu judgment. Nothing further need be said about them. She may not have benefited from her theft (which is doubtful) but the important fact, which the learned Chief Magistrate also emphasised, is that she breached her position of trust. That is a very serious matter indeed.

The appellant, in my view, premeditated the commission of the offence. From the facts of the case, instructions to her subordinate were not given haphazardly but were carefully planned. The closure of Mendes' account had been carefully thought out. The matter had been discussed, according to her own version, with Mrs. Soares. There was therefore no sudden temptation, no pressure from anybody to steal the money. She stole the money to enrich herself. After all, she only owed Mrs. Soares less than M2,100 (as some payments had been made) then why steal about four times that amount, if it was not for gain?

I have thought very seriously of setting aside the suspension of any sentence or portion thereof and letting the appellant serve the full sentence as imposed by the learned the Chief Magistrate. A deterrence sentence in the

/circumstances

circumstances of this case was definitely called for. However, on serious reflection the sentence imposed by the learned Chief Magistrate is, in the personal circumstances of the appellant, adequate.

The appeal is hereby dismissed.



J U D G E .

For Appellant : Mr. Radebe

For Respondent : Miss Moruthane.