

IN THE HIGH COURT OF LESOTHO

In the matter of :

R E X

VS

HANYANE HANYANE  
TLALI HLOSI  
MOHLAOLI MOLAI

J U D G M E N T

Delivered by the honourable Acting Chief Justice Mr.  
Justice J.L. Kheola on the 1st day of December, 1986.

The accused were charged with the offence of stock theft it being alleged that between the 1st and the 23rd July, 1986 and at or near Tsoelike cattle post in the district of Thaba-Tseka, the said accused did one or all or other of them unlawfully and intentionally steal eighteen (18) sheep the property or in the lawful possession of Tsokolo Monyane. They pleaded not guilty to the charge but were convicted and committed to the High Court for sentence. The trial court did not give any reasons why it found it necessary to follow this procedure.

There was altogether no reason why the learned magistrate committed the accused in custody <sup>to</sup> the High Court for sentence. The accused are herdboys of hardly twenty-years of age and were all first offenders.

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Did the magistrate honestly and judicially think that any court acting reasonably would sentence such youths to anything more than twelve (12) months' imprisonment which is the maximum of his jurisdiction? I doubt very much.

The evidence against the accused was that during July, 1986 the complainant discovered that eighteen (18) of his sheep were missing. He and two of his companions (Tsokolo Monyane (P.W.2) and Tabi Monyane (P.W.3) launched a search for the missing sheep. They followed a spoor leading to Mantsonyane area. On the way they found three dead sheep at a place called Likorolo and vultures were feeding on them. At Likomiking they got a clue as to the whereabouts of the missing sheep. On the following day they arrived at the cattle post of accused 1 at sunrise. They immediately identified some of the missing sheep amongst accused 1's sheep. At that moment the three accused came out of the cattle post hut and took to their heels as soon as they saw the complainant and his companions. The accused scattered in different directions. The search party chased accused 1 and caught him. They brought him back to the cattle post and he pointed out five of the missing sheep and explained <sup>that</sup> some of the sheep were at the cattle post of accused 2. The other two accused were arrested and taken to their respective cattle posts. Accused 2 pointed out four of the missing sheep and only one sheep was found at the cattle post of accused 3.

The defence of the accused was a complete denial that any of the stolen sheep were found at their respective cattle posts.

After a careful analysis of the evidence the learned magistrate rejected the evidence of the accused and found them guilty as charged.

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I have no quarrel with that finding because there was overwhelming evidence against the accused.

I am satisfied from the record of the accuseds' guilt and find them guilty as charged.

In their statements in mitigation of sentence the accused pointed out that they have sheep of their own and asked the Court to give them a fine.

SENTENCE:-

M150-00 or six (6) months' imprisonment each.

C.J.L. KHEOLA  
ACTING CHIEF JUSTICE.

5th January, 1987.

For Crown           • Miss Moruthoane  
For Defence       - In person.