

IN THE HIGH COURT OF LESOTHO

In the matter between:

REX

v

MOSALA NTABANYANE

Before the Honourable the Chief Justice Mr. Justice B.P. Cullinan,
on 30th March, 1986.

For the Crown Mr. S. Mdhuli, Crown Attorney
The Accused in Person.

JUDGMENT

This case comes before me by way of review as of course, from the Subordinate Court of the First Class at Guthing.

The accused pleaded guilty to a charge of assault with intent to do grievous bodily harm. He agreed with the statement of facts was duly convicted as charged, and was sentenced to pay a fine of M200, or in default of payment to undergo imprisonment for 10 months. I had the accused called before the Court to show cause, if he wished, why the sentence should not be increased. The learned Crown Attorney Mr. Mdhuli made reply to the accused's submissions.

The accused stabbed the complainant, his aunt, after he had been quite properly reprimanded by her. He stabbed her with a knife in the left shoulder, leaving a 3 centimetre wound, which was described as being "deep" by the doctor. The accused is a first offender who has pleaded guilty. He is entitled to leniency on both those grounds. Nonetheless, he used an offensive instrument, and the complainant was fortunate indeed that she did not suffer more grievous injury.

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Any form of aggravated assault, particularly where an offensive instrument such as a knife is used, deserves an immediate custodial sentence, other than in wholly exceptional circumstances. The accused did not pay the fine, and is in fact serving 10 months imprisonment. Nonetheless the sentence is, I consider, manifestly inadequate.

In all the circumstances the finding and conviction of the court below are confirmed. The sentence is set aside however and there is substituted herefor a sentence of three years' imprisonment, with effect from the 1st February, 1988, the date of sentence in the court below. I order however that the operation of one year's imprisonment be suspended for a period of two years, on condition that the accused is not convicted of any offence involving violence during that period.

Delivered at Maseru this 25th day of March, 1988.

B P Cullinan
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(B.P. CULLINAN)
CHIEF JUSTICE