

IN THE HIGH COURT OF LESOTHO

In the matter between:

R E X

and

PHETELO MAHARE

J U D G M E N T

Delivered by the Honourable Mr. Justice J.L. Kheola  
on the 29th day of August, 1989

The accused is charged with the murder of one Tankiso 'Moloki on the 23rd August, 1987 at or near Likameng in the district of Thaba-Tseka. The defence tendered a plea of guilty of culpable homicide and the Crown accepted it.

The facts of the case are that on the 23rd August, 1987 one 'Matokiso Mahare was at the home of the accused in the company

of the accused's wife. When the deceased arrived they gave him a stool and he sat down. While they were conversing with the deceased the accused arrived and greeted them. The two women answered the greeting but the deceased remained silent. The accused again greeted the deceased and asked who he was. The deceased became very stubborn and asked the accused who was he looking for.

The accused was not satisfied with that answer and warned the deceased that he had a right to ask him his name because that was his home. The deceased said he could not ask him such a thing and swore at him. He struck the accused with a stick. The accused stabbed him with a knife on the chest. The deceased went away but fell down not far from accused's house and died.


The parents of the deceased decided to bury him before any post-mortem examination was carried out. Although there is no medical evidence as to the cause of death I think there is no doubt that the deceased died as a result of the stab wound inflicted by the accused. He was healthy just before he was stabbed and died immediately after he was stabbed.

The defence tendered a plea of guilty of culpable homicide apparently on the ground that the accused slightly exceeded the bounds of self-defence in that after he was struck he decided to stab the deceased instead of attempting to run away.

Verdict: I find the accused guilty of culpable homicide in accordance with his plea.

Sentence: In passing sentence I took into consideration that the accused is a first offender and that he pleaded guilty without wasting the court's time. I also took into account that the deceased was the aggressor. The accused is sentenced to three (3) years' imprisonment suspended for three (3) years on condition that during the period of suspension the accused is not convicted of any offence involving violence to another person committed during the period of suspension.

Order: The knife must be destroyed by the police.

  
J.L. KHEOLA  
JUDGE

29th August, 1989.

For the Accused - Mr. Monaphathi  
For the Crown - Miss Moruthoane.