

IN THE HIGH COURT OF LESOTHO

In the matter of :

R E X

V

LINEO MOAHLOLI

J U D G M E N T

Delivered by the Hon. Mr. Justice M.L. Lehohla
on the 19th day of October, 1989.

The accused in this matter, is charged with the crime of murder, namely of her two months old child 'Matseleng Moahloli.

The accused tendered a plea of guilty to a lesser charge of culpable homicide.

It appears that on the 12th January 1988, the accused left her home taking her baby 'Matseleng purportedly to a clinic; and it emerges from the outline of the crown case that this day was the last one when the accused's mother saw the baby.

Following a report made in connection with the disappearance of this baby, D/Trooper Ramakeoane set out and arrested the accused on the 14th of January 1988 and the accused led him to Mohokare river on whose banks were foot-prints fitting the size of the accused's feet. On that occasion some napkins and items of linen in the shape of clothing were collected by Trooper Ramakeoane who went with the accused to his office.

It was during the interrogation that the accused was subjected to that it was revealed that she had thrown her

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child into the river which apparently was in flood at the time. Attempts were made to locate the body but it was not found. Following a report that was received later it was set out by investigators for the river once more and on the South African side of the river bank near Lesotho Flour Mills was found a dead body of the deceased. The body was retrieved from the water. The medical evidence which tends to support the accused's version that she strangled her baby shows that the body had no signs of having drowned.

I am told that the accused has no previous convictions and that when she committed the offence she was of a tender age herself; and that because of the shame that she had brought to her family it tended to show hostility towards her. But in my view this is a view shared only by herself, because I take it that the brothers and the family were perfectly entitled to look with disapproval at her type of behaviour. Theirs was a natural reaction.

Regard also being had to the fact that she doesn't even know who the father of the child was, it shows that she was a girl with very loose morals.

However I have also taken into account the fact that she is an illiterate. But it has often been said and repeatedly been held that economic straits can never justify the taking away of human life.

It has been illustrated in a number of cases including where three men were stranded at sea in a boat and couldn't find anything to eat. In that case what they did was to get rid of one of the men by killing him and feeding on his flesh. When they came to the shore where they felt that at last they had secured their survival, they faced a murder trial and discovered that their effort at sea was not worth their while.

There is also a similar instance where some people who were stranded at sea again, and the ship or the boat on

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which they were travelling was in danger of capsizing unless the weight in it was reduced, took out two or three men and jettisoned them into the Sea in order to secure their own survival. Definitely the ship made it to the shore but they all faced a murder charge and their effort was also found not worth their while at the end of that trial. I am quoting these incidents only to illustrate the point that economic straits however dire can never justify the taking away of human life.

The child was as entitled to her independent life as you yourself are entitled to your independent life.

Well I have taken into account that in your plea of guilty, it shows that you are remorseful for what shameful thing you have done, and taking into account everything then, I feel that your counsel has adequately addressed me on the desirability of a lenient sentence being imposed. I have also taken into account that you have been in jail since your arrest in January 1988.

The least sentence I can impose in the circumstances therefore is that of four years' imprisonment all of which is suspended for three years on condition that you be not convicted of a crime involving violence to another committed during the period of the suspension.

J U D G E.

19th October, 1989.

For Crown : Mr. Mokhobo
For Defence : Mr. Mafisa.