

without anything to wear whenever the deceased was at your father's premises. That in itself is something which would make even a worm turn even the most even-tempered of people would become offended by that sort of conduct you have related in your side of the story precisely the encounter that you said you had with the deceased.

Although you tell me that you were very drunk that day and at that particular moment but the fact remains that your encounter or the story that relates to it, has not been gainsaid by the crown. At the point of your encounter the utterances which took place there, were not gainsaid by the crown.

You told me that the deceased boasted that you are too big for your boots interfering as she conceived you were, in her affair with your father.

I can see that you are a mature man, so a thing of that nature to have been said hardly a year ago, you were not much younger than you are now - it appeared to me to have been a factor that provides a basis for the finding that there was provocation.

Our law on the matter says that if the provocation bears some reasonable relationship with the wrongful act committed then even though to all intents and purposes what you committed was murder it shall be regarded in law as Culpable Homicide only.

There is the case that I have been trying to locate here which is almost on all fours with what we are dealing with and witnessing today. The parties in it are Rex vs Moitsupeli & 2 Others Mrs Moitsupeli had her husband, "I don't remember the citation, I only remember the name," the husband hardly ever set foot at the joint house. Most of the time was spent by him with his concubine hardly a stone's throw away from his own house. Both Mrs Moitsupeli and her husband had children who ranged in age between 21 and 17. They

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were all boys. They had witnessed this sort of thing which was going on between their father and his concubine. They also noticed the hardships these goings on between their father the concubine were imposing on their mother's and their life.

One day the whole lot that is Mrs Moitsupeli and her brood went next door to where the husband was found with the concubine. As luck would have it there was a whole side of a sheep in there for the two, devoted for just the two. And without any hesitation Mrs Moitsupeli and especially her brood set about tearing apart the concubine with knives until she died.

Although they were brought before the courts of justice the learned judge who presided over the matter having considered all the aspects of the matter, felt that the type of punishment that the goings on between the deceased and the father of their family had imposed a form of strain on their own family, and that this was sufficient sentence that they had endured already.

While I am saying all this, I am not trying to say that human life can be taken away with levity. As I have said even earlier this morning human life is inviolable and whoever takes it away without lawful excuse will always suffer the consequences under the law of 'an eye for an eye' which is the basic one.

Having said all this I need not even bother my assessors because what you said amounted almost to a plea in mitigation. I take into account the fact that you were prepared to plead guilty to Culpable Homicide and I accordingly find you guilty of Culpable Homicide.

Now the sentence that I impose on you is that, you pay a thousand Maloti (M1000) or go to jail for

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one and half years all of which are suspended for a period of three years on condition that you are not found guilty of an offence involving violence to the person of another committed within the period of the suspension.

J U D G E.

12th December, 1989.

For Crown : Mr Sakoane

For Defence : Mr Z. Mda.