

IN THE HIGH COURT OF LESOTHO

In the matter of:

R E X

v

BOTA RANYALI

Before the Honourable the Chief Justice Mr. Justice
B. P. Cullinan on the 28th day of April, 1989

For the Crown : Mr. S. Sakoane Crown Counsel

For the Accused : In Person

J U D G M E N T

The accused was convicted by the Subordinate Court of the First Class for the Maseru District of unlawful carnal knowledge of a girl aged less than sixteen years ("defilement") contrary to section 3(1) of the Women and Girls Protection Proclamation 14 of 1949.

The accused pleaded guilty. He agreed with a statement of facts which disclosed a clear prima facie case. The conviction is accordingly confirmed.

The trial took place on the 7th June 1988, that is, before the learned trial Magistrate's jurisdiction was increased under the Subordinate Courts Order 1988. At the time her jurisdiction in the matter of punishment was that of two years's imprisonment. Under the circumstances

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the learned trial Magistrate committed the accused to the High Court for sentence stating full reasons for doing so.

The maximum sentence for defilement is six years' imprisonment. The girl, aged fourteen, did not apparently object to intercourse. Indeed she accepted some money from the accused thereafter. No doubt that is why defilement instead of rape was charged. Medical examination did not reveal any injury. The accused is a first offender. He pleaded guilty and cooperated with the Police. In particular he is now aged about sixty-eight years. He has been in prison since the 7th of June 1988 which, with remission, equates to a sentence of nearly sixteen months' imprisonment.

In view of the accused's advanced age, in particular, I consider that he should not serve any further punishment. Under the circumstances I impose a punishment of one year's imprisonment, but order that the operation thereof be suspended for a period of one year, on condition that the accused do not commit any sexual offence during that period.

Delivered at Maseru This 28th Day of April, 1989.

(B. P. CULLINAN)
CHIEF JUSTICE