

IN THE HIGH COURT OF LESOTHO

In the matter of :

R E X

V

THABO MAPHUROANE

Held at Butha-Buthe

J U D G M E N T

Delivered by the Hon. Mr. Justice M.L. Lehohla
on the 11th day of May, 1989.

You pleaded guilty to a lesser charge of Culpable Homicide. The crown accepted your plea, even at this stage if I may say so-properly. I have learnt that P.W.1 Lerato Lineo, who was with his father at Qholaqhoe at Ha Thaabe in Qholaqhoe took offence at seeing his father being tripped by your son and thereupon attacked your son with fists. You later pitched on the scene and fought P.W.1. In the process Lineo retreated to his home and fetched a stick with which to fight you back, and naturally your son and incidentally Masiba came to the scene and ~~Closed~~ ranks with you in the attack against P.W.1.

Once more P.W.1 was forced to retreat no doubt because he was extremely outnumbered. I may confess that I don't understand the nature of this fight. From the record it appears that he invited you during the fight to go to his home. I have never heard in my life of an invitation to one's home in the process

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of a fight. However the invitation was heeded and the fight proceeded to P.W.1's home where unfortunately his father was not present.

It would appear that the invitation to P.W.1's home was so that the father could help settle the cause of this dispute; and when he eventually came and while passions understandably were still high, he inquired about what was taking place at his house, and didn't wait a moment's delay before delivering a fist blow at you; and you acting perhaps in self-defence used a knife to stab him with. The court takes account of the fact that although the knife is a lethal weapon only one stab wound was inflicted.

Although the matter may have started as provocation on account of circumstances which immediately preceded the stabbing with a knife I take the view that you acted in self-defence albeit that you exceeded such defence to some moderate degree. But the Court takes heed of the fact that where a plea of self-defence is relied on it should not adopt an arm-chair ^{critic's} attitude and view your actions too critically while in fact what might have been happening at the scene could not afford a relaxed deliberation of the events which were taking place.

So although you used a knife it would be sheer speculation therefore of baseless type at that, to say that you should have warded off a fist blow with a fist blow. So in these circumstances I find that your plea of guilty to Culpable Homicide was properly tendered. You are accordingly found guilty of Culpable Homicide on your own plea.

I heard what your counsel has said on your behalf on the question of mitigation of sentence. I have taken into account that you have spent one and half years in prison. I have also taken into account the fact that circumstances really show that you were acting under extreme provocation. There was an attempt

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to have the matter settled, but your attempts at doing so were blessed with an attack on your physical body.

I have taken into account the fact that you pleaded guilty and did not waste the time of the court. One little thing that puzzles me is how could a man get cornered in a rondavell. But however, I attribute to the proper meaning of that expression its figurative sense. In the circumstances, I do appreciate the fact that you pleaded guilty and that is an indication that you are remorseful for the act.

I accordingly would impose a sentence which takes into account all these factors which are in your favour. But I need not over-emphasise the view that human life cannot be taken away without redress.

I accordingly impose a sentence of one thousand Maloti or two years' imprisonment of which half is suspended for three years, on condition that within the period of suspension of the term of imprisonment, you do not commit an offence involving use of violence to a person.

J U D G E.

11th May, 1989.

For Crown : Mr. Mokhobo
For Defence : Mr. C.D. Molapo.