

IN THE HIGH COURT OF LESOTHO

In the matter between:-

R E X

and

MATSHOHLO SEPIRITI
Polao Raseboku
SHAKHANE SEPIRITI
MORELE LEQELA

1st Accused
2nd Accused
3rd Accused
4th Accused

J U D G M E N T

Delivered by the Honourable Mr. Justice J.L. Kheola
on the 22nd day of August, 1990

In count 1 the accused were charged with the murder of Khafa Motlatsi Lesole on the 1st day of April, 1989 at Tiping in the district of Thaba-Tseka. In count 2 the accused were charged with assault with intent to do grievous bodily harm, it being alleged that on the 1st day of April, 1989 at Tiping in the district of Thaba-Tseka they assaulted Lepolesa Matala and Kalli Khabo by hitting them with sticks and whips all over the bodies with the intention of causing them grievous bodily harm.

To these charges the accused tendered pleas of guilty to culpable homicide and to common assault respectively. The Crown accepted the pleas in both counts and the counsel for the Crown stated the facts as follows:

Some time before the 1st day of April, 1989 the accused lost their bells which are normally fastened to cattle. On the 1st April, 1989 they looked for their bells and visited various cattle posts but they did not find them. The bells were eventually found at some place near the cattle posts of the deceased and the complainants in count 2. It is also alleged that when the accused persons arrived at the cattle post of the deceased and the complainants dogs were set upon them so that the accused could not easily search the area. The accused managed to beat off the dogs and found the stolen bells hidden under bundles of firewood. The accused then arrested the deceased and the complainants and escorted them to the chief's place. On the way the accused beat hell out of the deceased and the complainants.

The deceased was so severely beaten up that he became tired and was unable to walk; they put him on horseback but he fell several times because he was obviously no longer in a condition to ride a horse on his own. He died before they reached the chief's place. According to the post-mortem report the deceased died as a result of respiratory failure due to left pneumothorax. The left lung was completely collapsed. As far as the external injuries were concerned he had a deep wound on the occipital part of the scalp, multiple whip injuries on the body, face, legs and arms; fracture of the 4th and 5th ribs left side.

According to the medical report Lepolesa Matala had the following injuries: contusion on the right hand and on the right thigh; whip marks on the chest and rope marks and wounds on the arms. He also had brain commotion. The doctor formed the opinion that the degree of force applied in inflicting the above injuries was savage; however, there were no permanent disabilities.

Regarding the injuries of Kali Khabo the medical report indicates that he had whip marks all over the body, face, arms and legs. Savage force had been used to inflict the injuries. There was no permanent disability.

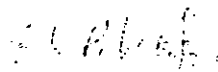
The facts were admitted by the defence counsel on behalf of the accused.

In passing sentence my attention was drawn to the fact that the accused were very angry because they had lost not only the eight bells in question but also two sheep and a goat. Dogs were set upon them by the deceased and his companions. One of their horses was found dead near the cattle post of the deceased. The second accused was only seventeen years old at the relevant time.

SENTENCE : Count I:- A1, A3 and A4: Four (4) years' imprisonment each.

A2: Four (4) cuts with a light cane to be administered in private by a prison officer.

Count 2:- M120-00 or four (4) months' imprisonment suspended for three years on condition that during the period of suspension they shall not be convicted of assault.


J.L. KHEOLA
JUDGE

15th October, 1990.

For Crown - Miss Moruthoane
For Defence - Mr. Maqutu.