

IN THE HIGH COURT OF LESOTHO

In the matter of :

R E X

v

SENZILE SKENQI

HELD AT QUTHING

J U D G M E N T

Delivered by the Hon. Mr. Justice M.L. Lehohla on  
the 12th day of December, 1990  
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The accused person stands charged in Count I with Murder and Count II - Assault with intent to do grievous bodily harm.

When the indictment was put to him at the beginning of the trial, the accused tendered a plea of Culpable Homicide on the first count which plea the Crown accepted. On the second count the accused pleaded guilty and the Crown accepted the plea.

The facts of this case are briefly that on the 28th April 1989 at Ha Tjoholo in the district of Quthing at early dusk, accused's elder sister quarrelled with his wife (accused's) over <sup>mealie</sup> pap that was allegedly cooked by the former and which the latter ate without asking for permission.

It was during this quarrel between the two ladies that suddenly accused pitched on the scene. On entering the hut, the accused struck his elder sister (Sedudla Skenqi) on

/the

the left arm without uttering any word. This was followed by another stick blow on the head. The accused's elder sister fell down but was once again hit with the stick by the accused on the back of her head. Apparently she passed out for some time.

Evidence shows that inside the hut where the assault was carried out, were 5 small children. And that during this assault a paraffin lamp which had been lit was extinguished. Indeed upon her coming to, the accused's elder sister discovered that the hut was in darkness and that the children had gone.

Evidence further shows that some of the accused's relatives in the compound heard a noise from where the accused was assaulting his elder sister. Sometime when they came to make inquiries, they met accused person from the hut. Upon reaching the hut from where he came, (i.e. accused) a small child of 4 years by the name of Maetho Ramahetlane was found to be seriously injured on the head. He was taken to another hut. However during the same night he died.

With respect to the death of the small child the doctor found the cause to be Epidural bleeding and brain compression, and observed that a tremendous blow was required to scatter the skull as found on examination.

This briefly is the outline of the facts that form the basis of the two counts on which the accused stands charged before this Court.

It appears that you were extremely negligent in your act when you molested this young child who died in the process. You are going to be convicted of Culpable Homicide on your own plea. Likewise in respect of the assaults that you meted out on Sdudla Skenqi you appear to have acted recklessly; it is only through her luck that she survived. You are accordingly, on your own plea, convicted of assault with intent to do grievous bodily harm.

/Sentence

SENTENCE

I have taken into consideration the fact that you have pleaded guilty, and that in the Court's mind is a sure sign that you are remorseful. In respect therefore of the Culpable Homicide of which you have been convicted on your own plea the sentence shall be 6 years' imprisonment of which 2 are suspended for 2 years on condition that you be not convicted of a crime involving violence to a person committed during the period of the suspension. With regard to your conviction relating to assault with intent to do grievous bodily harm the Court's hands are tied the best that I can do is impose the minimum prison term prescribed by the draconic Order - hence the imposition, therefore, of 5 years' imprisonment. And the least I can do by way of appreciation of your remorsefulness would be to make both these sentences run concurrently.

J U D G E

12th December, 1990

For Crown : Mr. Qhomane

For Defence : Mr. Fosa