

IN THE HIGH COURT OF LESOTHO

In the matter of :

R E X

v

MOHOLOBELA MOHOLOBELA

J U D G M E N T

Delivered by the Hon. Mr. Justice M.L. Lehohla
on the 27th day of April, 1990

When your matter came on Review the Court felt that the sentence you had received was manifestly inadequate and it therefore decided that you should be given an opportunity to say why in the event that the conviction is confirmed the sentence should not be enhanced.

Very properly your counsel addressed me on factors which he submitted should persuade the Court not to increase the sentence. One of those is your age which in itself entails indiscretion in that when you committed the offence you were only eighteen (18) further that, you didn't waste the time of the Court or even traumatise the victim by going through the cross-examination of her in Court and all that.

I have also been advised that the assault with a stick was not really connected with the Rape itself. The hitting with a stick was done in the vicinity and in full view of the victim's play-mates. But as to the rape nothing is suggested that it took place within their view. So it stands to reason that the hitting with a stick though in itself an abominable and unwarranted act was not really part

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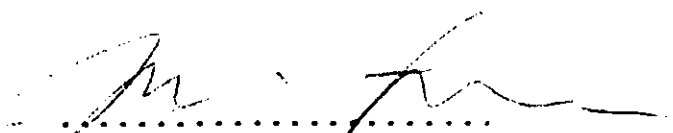
of the force that was used to commit rape. But now the rape itself was repeated twice.

The authority of R. v. Billan & Others (1986) ALL E.R. 985 (CA) to which I have been referred by your counsel says that : "in respect of benign rape Five Years (5) should be the starting point, but where it is repeated upwards of eight (8) years is warranted".

I have been told that in R. v. Masupha - CRI/REV/443/88 which is slightly different from yours, nine (9) years was imposed. But regard should be had to the fact that rape is a hanging crime. And anybody who commits it should not expect to be treated with benignity.

The girl that you have raped is a girl of tender years of only fourteen (14) and the stigma of rape will attach to her for the rest of her life. There is no doubt, in my mind, that when girls have gathered at some place and the question of rape is raised, she should feel very uncomfortable; thinking that she is being referred to in derogatory terms.

Well, of course, the fact that you pleaded guilty gives me the impression that you are quite remorseful. I am not going to give you nine years (9) imprisonment. But I am going to enhance your sentence to that of seven (7) years' imprisonment.



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J U D G E

27th April, 1990

For Crown : Ms. Moruthoane
For Defence: Mr. Putsoane