

IN THE HIGH COURT OF LESOTHO

In the matter between:-

R E X

and

RAMENO MOSUOE

Accused

J U D G M E N T

Delivered by the Honourable Mr. Justice J.L. Kheola
on the 22nd day of April, 1991

The accused is charged with two counts of murder; it being alleged that on the 11th day of August, 1984, and at or near Ha Ramosothoane in the district of Maseru, the accused unlawfully and intentionally killed Motseki Motseki (in count I) and Mothonyana Letsohla (in count II). He pleaded not guilty to both counts.

The accused has admitted that he shot and killed the two deceased persons but he has pleaded self-defence. The onus is on the Crown to rebut this defence and to prove that it is false beyond reasonable doubt. In other words, the crown must prove that the deceased persons never put the life of the accused in any imminent danger in order to entitle him to shoot and kill them.

P.W.1 Ramokhosi Makolojane testified that on the 11th August, 1984 he attended a feast at the home of one Ramosothoane. The feast started at about 2.00 p.m. while the accused and his companion had arrived earlier at about 1.00 p.m. They were members of R.L.D.F. and had come to that village to investigate the causes of certain disturbances. He received the accused and his companion, Private Mosiuoa (P.W.5) and put them in a house where close relatives of the family were accommodated. The feast went on for the whole afternoon and for almost the whole night till the small hours when the trouble started. During the feast the accused was drinking ginger beer as well as Sesotho beer. P.W.1 says that he drank ginger beer and porridge but never drank beer because he is teetotaler. The deceased persons drank Sesotho beer. People in that house were singing and dancing and there was a lot of noise. At about 3.00 or 4.00 a.m. P.W.1 noticed that there was a quarrel between the accused and one Motlatsi Molapo (P.W.4). The quarrel was over an axe, the accused was asking P.W.4 what he was doing with the axe. P.W.4 explained that he was removing the axe from where it had been lying because there were many people in the house and he apparently thought that they would steal it.

P.W.1 went to them and explained to the accused that he (P.W.1) had ordered P.W.4 to remove the axe because he was of the opinion that it might be stolen by the people who were singing and dancing in the house. The accused retorted by saying that he had realized that there was too much silliness in the house. He took out a pistol from his waist and went out of the house. As he was going out Motseki Motseki (Deceased No.1) talked to Mosothoana Letsohla (Deceased No.2) and said that they must leave the place because there was trouble in the house. They stood up

and walked towards the door. Deceased No.1 was in front of deceased No.2. At that time the accused was standing in the forecourt facing towards the door. He was about three paces from the door. P.W.1 says that he saw him because there was moonlight and he (P.W.1) was standing near the door inside the house. As soon as deceased No.1 got out, P.W.1 heard a gun report. Deceased No.1 fell on his face outside near the door. Deceased No.2 was shot three times at the doorway and fell down. He crawled back into the house. Immediately after the shooting the late Mopeli Kolozi (he was P.W.4 at the preparatory examination and whose deposition has been admitted in terms of section 227 of the Criminal Procedure and Evidence Act 1981) entered and closed the door. He said that no one should go out because a person had killed many people outside. The people in the house heeded his warning and sat down. Soon after that the accused entered and went straight to P.W.1. Accused asked him whether he was still dreaming as he did before and was brandishing his pistol. P.W.1 apologized and asked the accused to forgive him because he did not utter those words in a bad mood. The accused left him alone and went out.

Thereafter P.W.1 went out and reported the matter to the host. The accused was taken to another house. The accused did not do anything with the axe. The quarrel between the accused and P.W.4 was verbal and the former never manhandled the latter in any way. P.W.1 says that on the following morning he remarked that the accused had had a misfortune. The accused replied that he had not done what he had done accidentally or unintentionally. There

had not been any quarrel at any time during the feast and they did not even talk to each other. The deceased persons were not armed. P.W.1 estimates that there were about ten or fifteen people in the house which was a rondavel with a diameter of about six (6) paces.

Under cross-examination P.W.1 admitted that from where he was standing in the rondavel he could not see what was happening outside. The axe had originally been placed on the meat behind the door and that is where P.W.4 took it from. He did not hear any quarrel between one of the deceased and the accused allegedly caused by the former touching the foot of the latter. He denied that one of the deceased persons was holding an axe when they went out of the rondavel. He also denied that one of the deceased persons asked the late Mopeli Kolozi what he was talking to a policeman because they did not want policemen in their village. He said if the deceased had uttered those words he would have heard him because he was near the door. He also denies that the first shot was fired in the air because it was that first shot that hit the first deceased and felled him. When it was put to him that at the preparatory examination he said that the accused slapped P.W.4 but in this Court he is now saying the quarrel was only verbal, P.W.1 said the cause of this was the manner in which he was led by the Crown Counsel and the Public Prosecutor respectively. He admitted that he was a forgetful person and that he may have forgotten the events of that day. He admitted that at the preparatory examination he said he was standing in the centre of the rondavel but in this Court he is now saying he was standing near the door.

He attributed this contradiction to the fact that the events he was describing took place a long time ago. He denied that deceased No.2 came out running and raising up an axe.

P.W.2 Thakabanna Phethoka is the son-in-law of Caswell Koioi, the host. He testified that he arrived at the feast in the afternoon. As the son-in-law of the family he was well received and given a 20-litres tin full of Sesotho beer. He was accommodated in the same house with the accused and the deceased persons together with other people. He estimates that there were about ten people in the house. They were singing and dancing when he heard that the accused and P.W.4 were having a quarrel. He saw that the accused was holding an axe and was asking P.W.4 what was he doing with that axe. P.W.4 said he was not doing anything; the accused slapped him twice on the cheek. P.W.1 intervened and told the accused that even if he was a policeman or soldier he must not treat a person like that; there was a chief as well at the host to whom a complaint against any person could be reported. The accused replied and said there was too much silliness in the house and that he would eradicate it. He went out still holding the axe. After the accused had gone out the deceased No.1 asked the second deceased that they should go because he could not stay in a place like that one. They proceeded towards the door following each other. As soon as they got out P.W.2 heard about four (4) or five gun reports. Thereafter the accused came in and ordered P.W.1 to say what he had said earlier. P.W.1 pleaded for forgiveness because he did not expect that what he said would lead to the shooting. He observed that the accused did not have any axe at the time he was talking to P.W.1.

Under cross-examination P.W.2 said that when the trouble started he was not yet drunk because he had taken only two scales of beer. He denied that at one time during the singing and dancing one of the deceased persons touched or trampled on the accused's foot. The accused sat on the left side of the centre of the house while the deceased persons sat on the right side with the witness. He denies that there was ever any quarrel between the accused and any of the deceased persons.

The evidence of P.W.4 Motlatsi Molapo was to a large extent similar to that of P.W.1 and P.W.2. It is, however, worth mentioning at the outset that this witness could not make a distinction between dusk and afternoon as well as between night and evening/dusk. He testified that he was in the house already described by the other witnesses. While he was in the house P.W.1 ordered him to pick up an axe from the floor and put it on the meat behind the door because it was likely that the people in the house might steal it. He took the axe but before he could put it on the meat the accused snatched it from him and slapped him twice on the cheek. He brandished it and asked what he was doing with the axe. P.W.1 intervened and said that the accused should not assault P.W.4 because he (P.W.1) had ordered him to remove the axe. P.W.1 further said that the owner of the house and the chief were there and the accused had to report his complaint to them. Accused went out still holding the axe. P.W.1 says that after the accused had gone out, deceased No.2 went out followed by the first deceased. Before the second deceased went out he said he had seen that P.W.4 had been slapped twice and

advised him to sit down where he (deceased No.2) had been sitting.

P.W.4 testified that immediately after the deceased persons had gone out he heard four gun reports. He heard the second deceased say: "I am dying and leaving my children." He (second deceased) crawled back into the house. He bled from the right upperarm, below the armpit and on the buttock. Soon after the shooting the accused entered holding an axe and a pistol. He ordered P.W.1 to say what he had said before. P.W.1 said that there was still no fight. The accused was in a fighting mood when he uttered those words and was holding a pistol in his right hand and raising it up. On the following morning accused said that what he did had not been done accidentally.

Under cross-examination P.W.4 said that he does not agree with the other witnesses that the shooting took place a short time after the deceased had gone out.

P.W.5 Private Mosiuoa testified that he is a member of Royal Lesotho Defence Force. On the day in question he was at ha Ramosothoane. He was on patrol with the accused. They were received by the chief and his development committee. During the evening they attended a feast at the home of one Koloi. They were given food and Sesotho beer. He did not drink beer while the accused drank until he was too drunk. While they were sitting in the house he noticed that the accused was having a quarrel with a stranger. The accused was holding an axe and

said the man was trying to chop him with it. He intervened and the quarrel seemed to have ended. After about five minutes he heard a gun report followed by other two gun reports in rapid succession. He immediately went out looking for his companion (the accused). He managed to get out after pushing aside people who were trying to get out while others were forcing their way into the house. He found the accused outside and asked him what was happening. The latter showed him an axe and said: "I shall fan (phutia) you with this axe. This axe was to be used to chop me." On the following day one man came to the accused and remarked that a misfortune befell him. Accused said that he had not done it unintentionally.

P.W.5 said that he did not immediately disarm the accused when he found him outside because he did not want to make him wild. He and Koloi finally took the accused to another house. On the following morning the accused was taken to the police station and handed over to the police together with the axe.

The deposition of the late Mopeli Koloi was admitted in evidence in terms of section 227 of the Criminal Procedure and Evidence Act 1981. His deposition is to the effect that on the 11th August, 1984 he was at his parents' home with the accused and P.W.5. He had been a soldier with them but had left the Force. He received the accused and P.W.5 and served them with food and liquor. Both men drank liquor. Very late in the evening he realized that there was trouble in the house in which they were

sitting. He saw one man strike another man with a hand. He approached the two men and found that one of them was the accused. He (accused) was holding an axe. Mopeli says that he asked the accused what was happening. Accused said an attempt was being made to strike him with the same axe. P.W.4 was in front of the accused and P.W.1 was trying to stop the accused who wanted to attack P.W.4. He got hold of the accused and dragged him out of the house. They stopped outside the door step. He asked the accused to give him the axe and told him that it was wrong to find him causing trouble. The accused refused to give him the axe. As they were talking, the first deceased came and told him that he was leaving. Even before he could respond, the second deceased came and asked where the report said his home boy had got the axe from. Mopeli Koloi deposed that even before he could respond to the second deceased, he saw that the accused was shooting the two men. The accused was about one or two paces in front of him while the two deceased persons were standing on his left side. The accused fired about four times but he is not sure because he was frightened. He ran into the house and warned the people therein not to go outside. The deceased persons were not holding anything in their hands when they were shot.

The accused's version is that at about 7.30 p.m. on the day in question he and P.W.5 attended a feast at the home of Koloi. They were accommodated in a rondavel in which there were about fifteen to twenty people who were singing and dancing and drinking Sesotho beer. At one time he sat between two men he did not know. One of the man stood up and passed in front of the accused and as

he did so he stepped on the foot of the accused. A row broke out when the accused asked the man whether he was aware that he had stepped on his foot. The man became very angry. P.W.5 heard the noise and came to where the accused and the man were quarrelling. He warned the man to leave the accused alone because he (the man) had committed a wrong against the accused. The late Mopeli Koloi also came and the quarrel was stopped.

The accused testified that about ten (10) minutes after the quarrel had been stopped the late Mopeli Koloi again came into the house and found him (accused) sitting behind the door. Mopeli asked the accused to come out with him. They went out and stood near the door outside. Mopeli asked him to explain what was happening in the house. While he was explaining to Mopeli, a man came out of the house and was running towards them and brandishing an axe. The man asked Mopeli what he was discussing with a policeman. The accused said that as the man advanced towards him he (accused) moved two paces backwards and went behind Mopeli. The man kept on advancing towards him. He drew his pistol and cocked it. He fired in the air to scare him away but the man kept on advancing towards him. At about the same time another man came running behind the first man. The second man was raising up his right arm. It was at this juncture that the accused fired at the man with the axe who was then only about two paces from him. He was aiming his pistol at the chest area. After he was shot the man turned and faced towards the house. The second man kept on advancing towards the accused. He fired two shots at him in quick succession. He fell down and crawled back into the house still talking. After the shooting the accused went closer to the

first man who was holding an axe and took an axe which was lying on the ground on the right side of the man. He went into the house and showed P.W.1 the axe and explained to him that it was the axe with which he was about to be chopped. He went out but many people also came out of the house and P.W.1 said: "This is the policeman who has killed our people."

On the following morning he was sitting on a rock when one Kolobe came to him and asked him whether what had happened had been caused by him. Accused says that before he answered him he shed tears and then Kolobe said: "My child, I think what has happened was not intentional." Accused says that he never spoke to P.W.1 on the following morning and denies that he said what he did was not unintentional. When they eventually returned to Semonkong Police station he handed over to S/Lt. Makhotla the following things - an axe, pistol and two empty shells.

Mr. Malebanye, counsel for the defence, submitted that the evidence led by the Crown is highly inconsistent and contradictory, not only in relation to comparison of the testimony of different witnesses, but also in relation to the testimony of one and the same witness. Most of the Crown witnesses' testimony was not consistent with what they deposed to at the preparatory examination (P.E.). He referred to the following examples:

P.I.1 had testified at the P.E. that when the shooting took place he did not feel drunk, implying that he had been drinking yet at the trial he said he does not indulge in intoxicating drinks

at all. Secondly, at ^{the P.E.} the witness had said that when the shooting took place he was about the centre of the house and yet at the trial he said he stood near the door. Mr. Malebanye submitted that the evidence of P.W.1 is of paramount importance as he is the only witness who alleges to have seen the occurrences outside the rondavel immediately prior to the shooting. It is, however, noteworthy that the witness conceded under cross-examination that due to the minimal light outside, coupled with the fact that the rondavel was well lit inside, he could not have seen outside.

I agree with the criticism levelled against the evidence of P.W.1. By saying that he did not feel drunk he gave the impression that he had been drinking intoxicating drink. My difficulty with the so called deposition is that it was apparently not taken down in writing in accordance with the provisions of section 70 (2) (c) of the Criminal Procedure and Evidence Act 1981 (the Act) in that there is no indication that the evidence was read over to the witness; it is also not indicated who interpreted it from English into Sesotho. The learned Magistrate did not affix his signature. In my view the evidence was irregularly taken and is not a deposition or evidence in terms of section 70 (2) (c) of the Act.

It is not correct that at the P.E., P.W.2 said he did not hear the alleged verbal communication between the accused and P.W.4. At page 19 of the P.E. record the witness says that he saw the accused raising up the axe and asking P.W.4 what he did with it. P.W.4 said he did nothing with it. It seems to me that all the criticism levelled against the evidence of P.W.2 has no substance at all.

Mr. Malebanye submitted that ^{at} the P.E., P.W.4 deposed that when the accused was taken out of the rondavel by Mopeli Koloji after the quarrel, he did not see the axe and yet at the trial the witness now turns around and says that the accused carried the axe with him out of the rondavel. I agree that at page 22 of the P.E. record the witness is recorded as having said so. This is surprising because at page 21 the witness is recorded as having said "at the time the axe was already in the hands of accused. Accused walked out with it." Again the P.E. record does not show who interpreted the evidence from English into Sesotho. I have a doubt whether what appears on page 22 was read over to the witness because he and the public prosecutor would have heard that it was in conflict with what appears on page 21.

There was evidence by the police officer (P.W.3) that on the day the P.E. was held the magistrate who recorded the evidence was not well at all. He complained of headache and even went to the hospital. I am inclined to agree with this witness because some of the mistakes he made show extreme carelessness. He sometimes stamped the proceedings with the deposition stamp but failed to affix his signature and to indicate who interpreted the evidence from English into Sesotho. We do not know whether he did the interpretation himself or used the court interpreter. I am of the opinion that not much reliance should be placed on the P.E. record. In any case it seems to me that whatever discrepancies have been pointed out by Mr. Malebanye are not material. The events in this case took place at a feast during which the people including the Crown witnesses were singing and dancing. They were also drinking beer and I have no doubt in

my mind that even if some of them were not dead drunk the beer must have had some influence on their minds. There were between ten and fifteen people crammed in a fairly small rondavel. Because of the noise in the house people who were dancing or sitting at one end of the house could not hear what other people on the other side of the house were saying. Those were the prevailing circumstances under which the evidence must be considered.

It is common cause that the accused had a quarrel with another person in the house. According to all the Crown witnesses the person involved in the quarrel was Motlatsi Molapo (P.W.4). On the other hand the accused says that the person involved was one of the deceased and that the cause of the trouble was that the deceased stepped upon his (accused's) foot and when his attention was drawn to that fact he became angry. The accused did not know most of the people in the house except P.W.1, P.W.5 and the late Mopeli Koloji. So, his evidence that he had a quarrel with one of the deceased persons cannot be reliable because he did not know them.

Regarding the cause of the quarrel P.W.4 testified that he was the person involved in the quarrel. The accused saw him holding an axe in his hand and asked him what he was doing with it. The accused wrested the axe from him and slapped him on the cheek twice. It was at this juncture that P.W.1 and P.W.5 realized that there was something amiss. They went to that side of the house where the quarrel was going on. The accused was already holding the axe. P.W.1 explained to the accused that he had instructed P.W.4 to remove the axe. However, the accused

was not happy with that explanation and said the axe was just about to be used to chop him. He uttered words to the effect that there was too much silliness in the house and that he would eradicate it. He went out still holding the axe.

The impression I had of the Crown witnesses was that they were truthful witnesses who were prepared to tell the Court what they remembered. It must be borne in mind that these witnesses were giving evidence regarding events that took place over six (6) and half years ago and under the circumstances I have described above. The story of the accused that one of the deceased had stepped on his foot is an outright lie which he never even reported to anybody at the time of the quarrel. All what he said was that the axe was about to be used to chop him. There is overwhelming evidence that when the accused uttered those words he was quarrelling with P.W.4 and not with any of the deceased. His story is designed to give a reason that at least one of the deceased had a cause to attack him because he had just quarrelled with him inside the rondavel. I am satisfied that there was no such quarrel and that the accused is trying to justify his killing of two innocent people.

There has been proof beyond a reasonable doubt that the accused went out of the house with the axe still in his hands, that immediately after he went out the second deceased asked the first deceased that they should leave because he could not stay in a house in which there was trouble. The deceased proceeded towards the door and the first deceased was in front. P.W.1 testified that as soon as the first deceased got out, he heard

a gun report. When the second deceased was at the doorway P.W.1 heard other gun reports. I think that P.W.1 is not quite correct that the second deceased was shot at the doorway. I have accepted the evidence of the other Crown witnesses that the second deceased was also shot immediately after he got out of the house. In his evidence-in-chief P.W.1 had alleged that he saw what happened outside but under cross-examination he conceded that he could not see what was happening outside because of poor light and because there was good light in the house. So the only eye-witness concerning the events that took place outside the house is the late Mopoli Koloi whose deposition at the P.E. has been admitted in terms of section 227 of the Criminal Procedure and Evidence Act 1981.

Not much reliance can be placed on such a deposition because the deponent was not cross-examined. The accused was given a chance to cross-examine the witness but decided to reserve the cross-examination until the trial. Mopeli Koloi's evidence is that he and accused were standing at the door step. He asked the accused to give him the axe. On this point his evidence is confirmed by all the Crown witnesses that the accused already had the axe in his possession when he went out of the house. This is a very important point because it is accused's story that he left the axe in the house when he went out. This allegation has been totally refuted by the Crown witnesses and I have believed them. One of such witnesses is the accused's own companion, Private Mosiuoa (P.W.5) who was on patrol with him. There is no allegation that he had any grudge against the accused.

An attempt was made that P.W.5's home was in the same area and that he had loyalty and sympathy towards his home people. It turned out that P.W.5's home village was far from there. I find it to be most unlikely that P.W.5 could betray his colleague and falsely implicate him in a crime he has not committed in order to please the people most of whom he hardly knew.

The second question is whether the deceased persons attacked the accused in the manner he has described. Mopeli Koloï deposed that as he was talking to the accused and asking him to hand over the axe to him, the first deceased came to them and told him that he was leaving. Before he answered him, the second deceased came and asked "where the report said his home boy had got the axe from." (My underlining). The words underlined are not clear as to whom the deceased was referring. The accused shot the two deceased immediately after the second deceased had uttered those words. This part of the deposition is consistent with the evidence of the Crown witnesses that the shooting of the deceased persons took place immediately after they got out. If the events that took place outside the house were according to the accused's version, then the shooting would have taken place a fairly long time after the deceased persons got out.

Mr. Malebanye submitted that the Crown witness's testimony was full of inconsistencies in so far as the proximity and position of the deceased as at the time they were shot was in relation to the rondavel door. P.W.1, who is the only witness who alleges to have

observed the occurrences outside the rondavel, testified that the first deceased was shot about two paces from the door outside, while the second deceased was shot just as he was moving out. On the contrary, P.W.2, P.W.4 and P.W.5 were emphatic that the shooting of the two deceased happened outside.

I do not think that any useful purpose will be served by referring to the evidence of P.W.1 who conceded in cross-examination that because of poor moonlight outside and the *bright light in the rondavel he did not see what happened outside*. The other Crown witnesses did not see how far from the door the deceased were when they were shot; but they say they were shot immediately after they got out. It is clear that they could not have been far from the door. In fact Mopeli Koloi says that he and the accused were standing at the door step. I reject the evidence of the accused that he and Mopeli Koloi were standing on the side of the house and not near the door. It would have taken a long time for the deceased to reach them at the side of the house. It would have not been possible for the second deceased to crawl back into the house immediately after he was shot.

It is trite law that in a criminal trial the burden of proof is on the crown to prove beyond a reasonable doubt that the accused is guilty of the offence with which he is charged. In the present case the accused has raised the defence of self-defence. He bears no onus to prove that defence, the onus is still on the Crown to rebut that defence beyond any reasonable doubt. In Miller v. Minister of Pensions (1947) 2 All E.R. 372 at p. 373 Lord Denning said.

"It need not reach certainty; but it must carry a high degree of probability. Proof beyond a reasonable doubt does not mean proof beyond a shadow of doubt. The law would fail to protect the community if it admitted fanciful possibilities to deflect the course of justice. If the evidence is so strong against a man as to leave only a remote possibility in his favour, which can be dismissed with the sentence 'of course it's possible but not in the least probable,' the case is proved beyond reasonable doubt, but nothing short of that will suffice."

In a South African case R. v. Difford 1937 A.D. 370 at 373 Greenberg, J. said:

".....no onus rests on the accused to convince the court of the truth of any explanation which he gives. If he gives an explanation, even if that explanation is improbable, the court is not entitled to convict unless it is satisfied, not only that the explanation is improbable, but that beyond any reasonable doubt it is false. If there is any reasonable possibility of his explanation being true, then he is entitled to his acquittal."

I have rejected the defence of the accused on the ground that it is a story that cannot be reasonably possibly true. He appeared to be a liar of the first order. For instance, almost all the Crown witnesses said that there was meat behind the door. The defence counsel never challenged them on this point because he apparently had no instructions to the contrary. When the accused gave evidence he, for the first time, said there was no meat behind the door. This was obviously an afterthought which took even his own counsel by surprise.

There is overwhelming evidence that on the following morning one of the Crown witnesses went to the accused and expressed

his sympathy to the accused about the misfortune that had befallen him. Accused replied and said what he had done had not been done unintentionally.

Mr. Malebanye has referred to many cases on self-defence. It seems to me that the question of self-defence does not arise at all and there will be no need for me to consider those cases. The deceased never attacked the accused and his life was in no danger at all. He shot unarmed people as soon as they got out of the house on their way to their homes. The words uttered by the deceased to Mopeli Koloi did not in any manner indicate that they were just about to attack the accused.

I am satisfied that the Crown has proved its case beyond a reasonable doubt. The accused had the necessary intention to kill in the form of *dolus eventualis*. I accordingly find him guilty of murder on both charges.

J.L. KHEOLA

JUDGE

22nd April, 1991.

For Crown - Miss Nku
For Defence - Mr. Malebanye.

EXTENUATING CIRCUMSTANCES

It is trite law that intoxication is an extenuating circumstance.. (S. v. Mhlovu (2) 1965 (4) S.A. 692 (A.D.) at 695-6). There was evidence by the Crown witnesses that the accused was very drunk on the night in question. I am satisfied that the liquor affected or impaired his mental faculties as well as his judgment and thereby influenced him in regard to the murder. (S. v. Saaiman), 1967 (4) S.A. 440 (A.D.) at 443).

It was also common cause that there was no premeditation.

I find that there are extenuating circumstances.

SENTENCE:- In passing sentence I took into account that the accused is a first offender, he has four (4) minor children and that he is the sole breadwinner of his children; he will probably face a civil claim by the dependents of the two deceased persons. On the other hand I took into account that the accused was a peace officer who was expected to protect the lives of the people but he decided to take the lives of two innocent people. The deceased did not threaten to take his life or put him in any danger. He showed no remorse because on the following day when one person showed some sympathy towards him, the accused said that what he had done had not been unintentional.

Taking all the factors mentioned above I sentence
the accused to sixteen (16) years' imprisonment.

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J.L. KHEOLA
JUDGE

22nd April, 1991.

For Crown - Miss Nku
For Defence - Mr. Malebanye.