

IN THE HIGH COURT OF LESOTHO

In the matter of :

R E X

v

SELEMO NKEJANE MAKOKO

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 June, 1991

The Court has heard an outline of the facts which relate to the accident that occurred as a result of which the deceased died. The Court therefore finds you guilty of Culpable Homicide on your own plea.

The facts are as ably put forward by the Crown Counsel; namely, that on the day in question you had seen a number of boys near a hill and that the deceased was among these boys, and that when you went where you had your poles you found the poles missing, and that the following day when you tried to trace where these could have been taken to you traced them to these boys. It was further said that you were accompanied by a friend in the process of trying to find your poles, and that you had set out carrying your shotgun which is used for killing birds - you were also carrying a pair of handcuffs. I am told also that your friend asked you to shoot him a buck. You duly cocked the gun but for some reason or other you didn't

/shoot.

shoot. Nor did you afterwards put your gun at safety. Further that while the deceased, no doubt, under arrest by you and your friend was in front of you when you tried to fiddle with the gun a shot was fired and the deceased was the victim.

The Crown for these reasons properly, in my view, accepted your plea of Culpable Homicide on the basis that you were negligent in not having placed your gun at safety catch.

As I have already stated you are found guilty of Culpable Homicide on your own plea.

I have just heard the plea in mitigation expertly brought forward by your Counsel who said that you are forty two (42) years of age; and that you are a first offender. It has been urged that I should pay due regard to the fact that despite the fact that you are no longer a young man you have had a clean life, and that the shooting of this unfortunate man was purely accidental as outlined in the evidence, and that you assisted the police in the investigation of the crime by reporting yourself and continuing the investigation to its conclusion. I have also been asked to take into account that the law according to custom would require you to raise the head of the deceased.

For all these reasons which are entirely acceptable to me I have also taken into account the fact that you didn't waste the time of this Court in that you pleaded guilty - and that itself is a sure sign of remorsefulness. Well, it doesn't seem that you make much by way of income but your blanket shows that it is quite expensive.

The sentence then that I can impose on you account being taken of your annual income is that you will pay One Thousand Maloti (M1000.00) or go to jail for two

/years

years half of this sentence is suspended for two years on condition that for the duration of the period of the suspension you are not convicted of a crime involving assault or violence to a person.

J U D G E
11th June, 1991

For Crown : Mr. Mokhobo

For Defence : Miss Tau