

CRI/T/37/91
CR 28/90
PE/5/90

IN THE HIGH COURT OF LESOTHO

In the matter of :

R E X

v

SELOSENE THOCHOLO

SENTENCE

Delivered by the Honourable Mr. Justice T. Monapathi
on the 1st day of August, 1994

I have already found you guilty of culpable homicide, on your own plea, in accordance with the provisions of section 240 1(a) of the Criminal Procedure and Evidence Act 1981. I have heard the submission of your Counsel in mitigation of sentence. Those I have considered.

It is advisable for Counsels, for purpose of sentence to advise accused persons to give viva voce evidence, to assist the Court and to enlighten the Court. Of course this is for the benefit of an accused persons, who have nothing to hide. However electing not to go into the box as accused persons, more often

than not do, is the right that the law gives to them. But it does not result in full and candid disclosure of all important facts for consideration by the Courts for the purpose of sound and balanced sentencing.

I have said that you have taken the life of a human being. It is a serious thing. That is why this Court is sitting here today about this matter. As we all know Courts do not condone unlawful killings of human beings by other human beings. That is why you must be punished. You must be punished because it must be brought home to you and the whole community that people who have done wrong should be punished. In common language you must bear your own cross.

What I think is very important in your favour is that you have admitted guilt. This is what we encourage. It saves the time of the Court. It shows contrition. It shows remorse. That we should consider in our sentence.

I also realize that you are a very young person. You should be about twenty seven years now. You are married. You have a family to take care of. You also deserve a chance in life. But then we cannot ignore the circumstances of the deceased as matters stand now. He will not come back. He is lost to his community. He is lost to his family. It is for ever.

Crown Counsel has told me that you have no previous convictions, meaning that this is your first occasion to do an unlawful thing like this. I have also taken into account these circumstances of the killing of the deceased. You had suspicion that the deceased caused your arrest for stock theft. Your arrest was found to be based on wrong suspicion. You felt very aggrieved about this. If I understood well you thought the deceased was the cause of this. But then you did not take lawful steps or seek to discuss the matter with a good intention and spirit of clearing the air towards an amicable settlement.

There was also some drunkenness or drinking around this time of the fight. This I have also considered.

You can rest assured that one of the things we have had in mind in giving you this punishment is to have justice done with mercy. This Court has to have mercy when sentencing people brought before it. But all the same the punishment must also indicate the view of the seriousness which this Court takes of your unlawful action.

I will send you to a term of imprisonment without a fine. It will be six (6) years. From now onwards you are under the sentence that I have made. You should understand.

**1. MONAPATHI
JUDGE**

1st August, 1994

For the Crown : Mr. Sakoane

For the Accused : Mr. Mathafeng