

CRI/REV/134/99

IN THE HIGH COURT OF LESOTHO

In the matter of :

REX

v

LETSEMA MOKOALELI

J U D G M E N T

Delivered by the Hon. M.L. Lehohla on the 30th day of May, 2000

You appeared before the Magistrate's Court charged with rape of your own daughter who was at that time aged 19 years, and you pleaded not guilty to that charge, but at the end of the day the Magistrate relying on the evidence that was led before him found you guilty as charged and sentenced you to ten years' imprisonment. I need not elaborate on the evidence that you didn't seriously challenge of the witnesses who gave evidence before that Court. For instance there was the evidence of PW3 who indicated that she had been your lover, that's 'Mamosa, and that when she got a report from PW1 that you had raped her, she

confronted you with her and then asked of you why make a wife of your own daughter and you vouchsafed her no answer. That's what she says.

In argument before me you told me that she is not being truthful when she says you said nothing. But you were given an opportunity by the Magistrate to raise questions indicating how lying she was in that respect, but the record reveals you as not touching that particular question at all, at all. So the learned Magistrate's Court cannot be criticised for having believed 'Mamosa in that respect and using this as one of the reasons why he convicted you. Now at the end of the day too after you had exercised your right not to give evidence the prosecutor addressed the Court and you were asked to respond to his addresses, and your response was "I am guilty".

Now one may say one is guilty for a variety of reasons which may even not be true. I can say I am guilty when I am not telling the truth. But where there is evidence which corroborates that conduct or that state of mind of guilt then one need not look far to come to the conclusion that it is true that this man is guilty. So my conclusion is that the learned Magistrate correctly convicted you of rape of your own daughter.

You were called before this Court because this Court had some concern about the fact that you were not represented in the Court below. The sentence was heavy therefore this Court wanted to give you an opportunity through your lawyer if you could afford one to come and show why this sentence should not be confirmed in the event that the conviction is confirmed and the Court cannot provide you with a lawyer if you cannot afford one. But you gallantly defended yourself, if I may say so, before this Court, yet despite all that one cannot seriously find fault with the sentence that the Magistrate imposed, regard being had to the fact that it is your own daughter whom you had repeatedly had sex with against her consent. That is not how decent human beings should behave.

The Magistrate observed that one of the shocking things nowadays is that there is prevalence of the disease called AIDS(HIV). While there is no proof that your daughter suffers from that nonetheless she suffers from venereal disease. 'Mamosa is not your wife but you sleep with her time and again, and then you go beyond that to sleep with your daughter. This shows you as a philanderer of the worst order. Thus the conviction is confirmed and the sentence is confirmed.

You were given an opportunity to get yourself a lawyer and as a result of that

time after time this matter kept on being postponed. And one of the days when it was to be heard was the 31st of March, 2000 concerning which the directive I had given was given as long ago as 22nd of October 1999 and then the matter was postponed to the 1st May 2000 but on that day again you pleaded that you wanted to get yourself a lawyer and you made an undertaking that if you fail to get one then we were going to proceed as we have just done on the 30th May 2000. That will be all.



.....
JUDGE
30th May, 2000

For Crown : Ms Sesing
For Defence : In Person