

IN THE HIGH COURT OF LESOTHO

In the Application of :

RANCHOLU SEETA Applicant

v

MAKALETSI KALETSI Respondent

REASONS FOR JUDGMENT

Filed by the Hon. Chief Justice, Mr. Justice
T.S. Cotran on the 16th day of April 1980

This is an application for leave to appeal to the High Court from the Judgment of the Judicial Commissioner, who refused to state a case or otherwise to issue a certificate in terms of s.28(3) of the Central and Local Courts Proclamation (Vol. X Laws of Lesotho p. 186).

After hearing argument (in the absence of the respondent who was summoned but failed to appear) leave to appeal was granted on the 24th March 1980. I said I will file my reasons later and these now follow:-

It is not for this Court to usurp the function of the Judge who will eventually determine the appeal; suffice it to say now that I find at least one good reason why I think the case has some merit and good prospects of success, at any rate on the quantum of damages (16 heads of cattle) that have been awarded to the respondent by the Courts below.

The appellant's son Seeta was alleged to have seduced the respondent's daughter Jeannet on two occasions the first in 1971 after which twin children were born and the second occasion in 1976 after which a child was born. Assuming this was true, the respondent (father of the girl) took no action on either of these seductions until 1978, i.e. 7 years after the first and two years after the second. He brought one action simultaneously. It is true that s. 6(1) and (2) of Part II Laws of Lerotholi provide for payment of up to 6 heads of cattle ^{for a first seduction} and up to ten heads of cattle

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for a second seduction by the same man, but this is prima facie a case in which the maximum should not have been awarded. There was firstly the great lapse in time, and secondly the evidence, such as it is, indicates that on the second occasion this happened it was with the active participation of the girl who was expelled from her father's home, (he later took her back) and to a large extent very much at fault as the boy.

I will make no order as to costs as I shall assume from the respondent's non-appearance that he is not opposing granting of the application for leave to appeal. He must, however, be summoned again for the hearing when a date is fixed.

CHIEF JUSTICE
16th April, 1980

For Applicant: Mr. Maqutu
For Respondent: No Appearance