

400 Nefekang J  
CRI/A/11/80

IN THE HIGH COURT OF LESOTHO

In the Appeal of :

KOPANO PHAKISI

Appellant

v.

R E X

Respondent

J U D G M E N T

Delivered by Hon. Mr. Justice F.X. Rooney  
on the 21st July, 1980

On the 9th January the appellant appeared before the Mokhotlong Subordinate Court charged with two counts of assault with intent to do grievous harm. On the first count it was alleged that on the 12th December, 1979 the accused stabbed 'Matholang Mokoatle and Antone Hanyane with a knife. The second count alleged that on the 30th December, 1979 he assaulted 'Matholang by striking her with a stick on the forehead.

On conviction the appellant was sentenced to six months' imprisonment on each count, the sentences to run consecutively. On the 23rd May, I dismissed the appeal on Count 2 and reserved judgment on the first count. However, I ordered that in any event the sentences on each count should run concurrently.

It was revealed that during the whole of 1979 until December the appellant and 'Matholang had been living together at a road camp. 'Matholang then formed an attachment to Hanyane and left the appellant taking with her many articles which he had bought for her. The appellant said that his affair with the woman had lasted 5 years. There is no doubt that when he called at the house in which Hanyane and his former lover were staying he was affected by jealousy. A fight broke out during which both complainants were stabbed and the appellant sustained severe injuries. The magistrate found that the appellant was the aggressor. He was apparently satisfied to accept the evidence of the complainants in preference to that of the appellant. I am unable to find that he was incorrect in this conclusion.

The second assault which was the subject of count II, arose from the same motives, but, was more particularly concerned with the appellant's efforts to recover what he regarded as his property from his former girl friend. I took the view that the sufferings of the appellant both physical and mental should have been taken into account before sentence was passed on him and that taking all the known facts into consideration justice would be served by making the sentence run concurrently.

In the result therefore, the appeals against conviction are dismissed and the sentences confirmed, subject to their being ordered to run concurrently.



F.X. ROONEY

JUDGE

21st July, 1980.

For Appellant     • Mr. Ramolibeli

For Respondent    : Mr. Peete