



IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CRIM. T. NO. 21/95

In the matter between:

REX

VS

1. LINO JABULANI MKHATSHWA
2. JUNE KHOZA

CORAM : A.F.M. THWALA
FOR THE CROWN : L. NGARUA
FOR THE DEFENDANT : IN PERSONS

JUDGMENT

17/05/95

The two accused are charged with the crime of robbery in that they robbed Patrick Mokoena on the 22nd July, 1994. They took wages which amounted to E22,665.000. They came with a knife and one of them was holding something covered with a cloth. They were wearing tattered clothes. They told all the people who were in the office to lie down. They then took the wages. They also dismantled the receivers of the radio links. An alarm was raised. The Security came with dogs and they showed them where the thieves went. Motsa found in the sugar cane a bag with two pair of shoes, one black, one brown and a cap. The investigation went on until accused no.1 was arrested in the morning hours of the following day.

Thomas Maziya was called and he identified one of the pair of shoes as belonging to accused no. 1. The cap also belonged to accused no. 1. Thomas worked with accused no. 1. This was also confirmed by Nxumalo. Sipiwe identified the articles and she also gave evidence as to when no. 1 was arrested.

She also identified the pair of shoes as belonging to accused no. 2. Evar also identified the items as belonging to accused no. 1. She positively identified most of the items and also said she could recognise the cap because she used to wash it for accused no. 1. As to the identity of the items, the court is satisfied that the shoes belonged to accused no. 2, and that the other pair belonged to accused no. 1. Some of the items belonged to accused no. 1 and the bag was positively identified by Zanele as belonging to no. 2. Detective Sub-inspector Dlamini was taken by accused no. 1 and he led him to where he found the rest of the items i.e. the overcoat, and some of the torn clothes which were worn by the robbers. But no. 1 is denying that he took sub-inspector to where these things were hidden in the sugar-cane. Both accused are saying that they were taken by the police to be shown where the police found the items. I prefer the police evidence as to that of the accused.

Constable Matsenjwa told the court that he went with the accused who led him to Mafucula. At a certain mountain accused no. 2 showed him the money where it was hidden. He took the money and counted it. It was wrapped in a pyjama. It was put in salary envelopes written the names of the employees. This is the money which was taken during the robbery. The money amounted to E21.801.50. He took the money as an exhibit. This is also confirmed by Detective Sergeant Magagula.

The accused gave evidence denying everything which has been said by the crown witnesses. They denied all what the police said and their girlfriends. They say that the money was produced by the police from the police van. They went to Mafucula because the police wanted to show their relatives the money.

There is no reason why the police would have worried themselves to go and show their relatives the money. Their evidence is against the clear evidence led by the crown. I have no hesitation in finding the two accused guilty of the robbery.


A.F.M. THWALA

JUDGE