



**IN THE HIGH COURT OF ESWATINI**

**JUDGMENT**

Held at Mbabane

Case No. 94/17

In the matter between:

**REX**

**AND**

**SANDILE LINDO SHONGWE**

**Neutral citation:** *Rex vs Sandile Lindo Shongwe [94/17] [2021] SZHC 07 (22 February 2021)*

**Coram:** FAKUDZE, J

**Heard:** 16<sup>th</sup> February, 2021

**Delivered:** 22<sup>nd</sup> February, 2021

**Summary:** *Criminal Law – Accused charged with Attempted Murder – No Evidence establishing any stabbing – Complainant says that she was cut by the accused – accused acquitted of Attempted Murder – convicted of a lesser crime of Assault With Intent To Cause Grievous Bodily Harm.*

## JUDGMENT

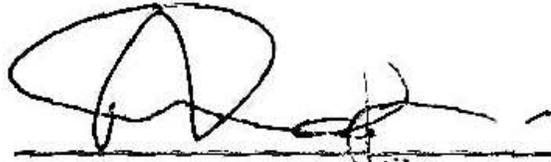
- [1] The accused was charged with Attempted Murder in that upon or about the 24<sup>th</sup> February, 2016, and at or near Vusweni area in the Hhohho Region the said accused person did unlawfully stab Angel Nhlengethwa two times on the neck with a knife with intent to kill her and thereby commit the crime of Attempted Murder.
- [2] When the accused was called upon to plead, he entered a Plea of not guilty to Attempted Murder but guilty of Assault with Intent to Cause Bodily Harm. The court entered a Plea of not guilty to Attempted Murder.
- [3] In its quest to prove its case, the Crown called Angel Nhlengethwa as its first witness. This witness stated that she had a love relationship with the accused. Later she got pregnant and gave birth to twins. The twins died at the accused's home under unclear circumstances. The accused suspected that the complainant had had a hand in the death of the children. On the day of the crime, the accused called the complainant to a place where they used to meet. The accused arrived there first. When the complainant arrived, the accused blamed her for the death of the twins. He then threw her to the ground and cut her on the left side of the neck. She dispossessed the accused of the knife, broke it and threw it away. The accused found the blade part of the knife and pushed the complainant again to the ground. He then cut her on the right side of the neck. The accused then released her after threatening her that she should not tell anyone what he had done otherwise he will shoot her.
- [4] The accused was given an opportunity to cross examine the complainant. He wanted to find out why the complainant apologised to him if she did not

have a hand in the death of the twins. The complainant explained that she was pressured by the accused's family to apologise.

[5] After the cross examination, the Crown applied that since there was no evidence of any stabbing, the lesser crime of assault with Intent to Cause Grievous Bodily Harm should be the competent charge. The court then acquitted the accused of Attempted Murder and allowed the Crown to proceed to prove the lesser charge. The Crown then produced a Medical Report and the accused was asked if the doctor who prepared it should be called. The accused said he did not have any questions for the doctor who prepared it. He is fine with its content. After the reading of the Report, it was admitted as part of the Crown's evidence and same was marked as "Exhibit 1." The Medical Report revealed that there were two cuts on the complainant's neck, one on the left and the other on the right. The fourth and fifth fingers also had cuts.

[6] After submitting the Report the Crown then closed its case. The Court explained to the accused his rights in presenting its defence. Before that he was told of his rights to give evidence under oath, giving evidence without an oath and remaining silent. The accused opted to remain silent. He apologised to the complainant for everything that had happened.

[7] In light of the evidence adduced by the Crown, the accused is acquitted and discharged of the offence of Attempted Murder. He is guilty of Assault with Intent to Cause Grievous Bodily Harm.

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**FAKUDZE J.**

**JUDGE OF THE HIGH COURT**

Crown: M.F. Dlamini

Accused: In Person