



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 12 (22 February, 2021)*

Coram: FAKUDZE, J

Heard: 16th February, 2021

Delivered: 22nd February, 2021

JUDGMENT ON SENTENCE

- [1] The accused was charged with the offence of Attempted Murder. He pleaded guilty to Assault with Intent to Cause Grievous Bodily Harm. The court entered a Plea of not guilty to Attempted Murder. At the end of the Crown's case the accused were acquitted and discharged of Attempted Murder but was convicted of a lesser crime of Assault with Intent to Cause Grievous Bodily Harm. This was on the 22nd February, 2021.
- [2] The court is now called upon to determine the appropriate sentence.
- [3] When sentencing an accused person a court must deal with three interests: (a) the interests of the individual; (b) the interests of society; and (c) the offence itself. In the case of **Sifiso Malaza and Others v Rex, Criminal Appeal No. 30/2010**, His Lordship Ramodibedi C.J, as He then was, summarised the above-mentioned considerations in sentencing as follows:

“It is of critical importance that the sentencing of an accused person should be premised on a thorough investigation of all the relevant facts surrounding the commission of the offence. The personal circumstances of an accused person obviously need to be taken into account. However, the degree of his moral guilt is also dependent on the gravity of the offence as well as the mitigating and the aggravating features of the offence. If the court process does not

elucidate the factors, the court sentencing the offender may fail to do justice to an accused or per contra fail to ensure the protection of the public.”

[4] In applying the abovementioned considerations to the case at hand, as far as the accused person is concerned, I have taken into account that:

- (a) The accused did not waste the court’s time;
- (b) The accused is remorseful for his actions. He apologised from time to time to the complainant, during the court proceedings;
- (c) The accused is a first offender;
- (d) The accused is relatively young. He has a bright future; and
- (e) The accused level of education is very low.

[5] As far as the offence is concerned, I have taken into account the following:

- (a) The accused has been convicted of a serious offence;
- (b) The accused admitted that he caused the wounds on the deceased’s neck and the fourth and fifth finger; and
- (c) The accused used a dangerous weapon in inflicting the wounds.

[6] As far as the interests of society of are concerned, I have taken into account that the crimes of passion are on the increase in our society. A deterrent sentence helps in reducing these crimes.

[7] In totality of the abovementioned factors, the accused is sentenced to imprisonment for a period of three (3) years with an option of a fine of Three Thousand Emalangi (E3,000.00). The period of imprisonment or fine is suspended for a period of six months to allow the accused to pay the fine failing which he shall be imprisoned. The period the accused spent in custody (if any) prior to him being released on bail is to be taken into account in computing the period of imprisonment.

A handwritten signature in black ink, appearing to be 'FAKUDZE J.', written over a horizontal line.

FAKUDZE J.

JUDGE OF THE HIGH COURT

Rex: M. F. Dlamini

Accused: In Person