

THE STATE

Versus

LUYEYO MUMPANDE

IN THE HIGH COURT OF ZIMBABWE
BERE J with Assessors Mr T.E. Ndlovu & Mrs E. Chazanga
HWANGE CIRCUIT COURT 7 NOVEMBER 2016

Criminal Trial

Miss N. Munsaka for the state
Mr N. Ndlovu for the accused

BERE J: The accused in this case was originally charged with the crime of murder. The accused offered a limited plea of guilty to culpable homicide which was accepted by the state leading to the compilation of annexure 1, the statement of agreed facts as modified by the accused person when the court sought clarification.

The statement of agreed facts as modified reads as follows:

“The State and Defence are agreed that the following issues are common cause being that:

1. Accused resides at Mailos Mumpande’s homestead Saba village, Binga.
2. He was aged 28 years at the time of the commission of the offence.
3. Deceased was aged 30 years at the time he met his death and he resided at Janet Sikali Mumpande’s homestead, Saba Village, Binga.
4. The accused and deceased were not related.
5. On the 17th of April 2010, the accused and the deceased were at Kabila bar drinking beer together.
6. The two then had a misunderstanding over a bottle of beer.
7. Accused then assaulted the deceased with open hands several times on the head whilst outside the bar.
8. Accused then pulled deceased to the back of the toilet and continued to assault him on the head with open hands until Sithembinkosi Muleya intervened.
9. Deceased then walked back to the bar and collapsed at the entrance where he died.
10. The accused person pleads not guilty to murder but pleads guilty to culpable homicide in that he negligently caused the death of the deceased.”

In mitigation we accept that the accused has not attempted to waste the court's time and he appeared to have realised the grievous mistake he made on this day hence this plea of guilty. The accused has a young family to take care of and he is a first offender.

From the statement of agreed facts it is clear that this offence occurred when both the accused and the deceased were drunk. It should be mitigatory that as a result of this case the accused's family had to be relocated to some other place by the Chief of his area.

In aggravation, it is clear that a life which ought not to have been lost was lost in very sad circumstances, as a result of beer drinking. Like the State Counsel says beer should be there to enhance merry making and not as a means to create untold suffering to other families as what happened in this case.

The accused's conduct caused the loss of a breadwinner to the deceased's family as life was needlessly lost.

People must learn to desist from indulging in violence. There is evidence of protracted assault on the head of the deceased and that inevitably led to loss of life because the human head is a very sensitive organ.

Sentence

6 years imprisonment 2 years of which are suspended for 5 years on condition the accused does not within that period commit any offence involving violence upon the person of another and for which upon conviction he will be sentenced to a term of imprisonment without the option of a fine.

*The National Prosecuting Authority, state's legal practitioners
Ndove, Museta & Partners, accused's legal practitioners*