

LESOTHO / JUDGMENT

Rex V Rants'o TSoho (CRI/T/0070/2018) [2023] LSHC 255 (25 October 2023)

[2023] LSHC 255

COURT

High Court

CASE / FILE NUMBER

CRI/T/0070/2018

Source: lesotholii.org · Research copy typeset by Esheria. Not court-issued or certified.

IN THE HIGH COURT OF LESOTHO CRI/T/0070/2018 HELD AT MASERU In the matter between:-
REX vs RANTŠO TSOHO CORAM : RALEBESE J. HEARING : 24 OCTOBER 2023

JUDGMENT

: 24 OCTOBER 2023 SENTENCE : 25 OCTOBER 2023 SUMMARY Criminal law – Charge of murder in contravention of section 40(1) of the Penal Code Act – Plea of guilty to culpable homicide – Accused exceeded the limits of private defence moderately – Guilty of culpable homicide – Accused undertaking to compensate the deceased's family – Imprisonment term suspended on conditions that the accused compensates the family of the deceased and he does not commit an offence involving violence. ANNOTATIONS CITED CASES: LESOTHO Mothobi vs Director of Prosecution (C of A No.4 of 2019) [2022] LSCA 24 (15 May 2022) STATUTES: Criminal Procedure and Evidence Act No.9 of 1981 Penal Code Act No. of 2010 Ralebese J.

- [1] The accused, a Mosotho male who was aged 54 years on the date of hearing has been charged with the murder of Moeti Koloko in contravention of section 40 (1) of the Penal Code Act No.6 of 2010. The offence is alleged to have been committed on 24 October 2015 at Sekamaneng in Berea. The accused pleaded guilty to a lesser charge of culpable homicide which plea was accepted by the Crown.
- [2] The outline of the facts discloses that the accused is a retired member of the Lesotho Defence Force. On the night of 23rd October 2015, the accused who was then still a soldier was with the deceased and other villagers at a local bar enjoying liquor. In the wee hours of 24th October 2015, a squabble ensued between the accused and the deceased which ended in a physical fight wherein the deceased hit the accused with a beer bottle on the forehead. The accused sustained an injury and blood even oozed from the wound. People who were in the bar stopped the fight and the owner of the bar undertook to take the accused to hospital. When the accused and bar owner were about to leave the bar for the hospital, the deceased advanced towards the accused still in the fighting spirit, and he was armed with a beer bottle. The accused ran back into the bar and behind the counter and he shot the deceased once. The deceased collapsed at the doorway.

- [3] The police were informed about the incident, and they attended the scene. The police found the deceased dead from where he had collapsed, and he had an open wound above the left ear. A post-mortem was done, and the report disclosed that the deceased had died from an intracranial hemorrhage due to a gunshot. The accused also went to the doctor and the medical form showed that he had sustained an open wound on the forehead that was sutured. Verdict
- [4] The outline of facts shows that the deceased was the attacker and the accused acted in private defence as there was a reasonable apprehension that the deceased was about to attack him with a beer bottle as he had done initially. Shooting the deceased in the head was not the only feasible means through which he could have defended himself. Being a person trained in the use of firearms, he could have reasonably targeted the less critical part of the body other than the head. The deceased was armed with a beer bottle, and for the accused to have targeted the head was not reasonably necessary in the circumstances¹. The accused therefore exceeded the limits of private defence moderately as he shot the deceased only once. He is thus found guilty of culpable homicide in contravention of section 41 (1) of the Penal Code Act read with subsection (2). Sentence
- [5] As stated in the case of *Mothobi v Director of Public Prosecutions*² for the court to reach a just and appropriate sentence, it should consider balancing between the crime, the personal circumstances of the accused, and the interests of society. The factors should be viewed within the context of the objectives of sentencing which are prevention, deterrence, retribution, and rehabilitation.
- [6] This is an unfortunate case where the accused person was provoked into the commission of the offence by the deceased's behavior. That notwithstanding, the accused, being a member of the disciplined force should have resorted to lesser fatal means of defending himself. Considering that both the accused and the deceased had been drinking the whole night, the accused's reaction and poor judgment must have been influenced by his drunken status. 1 Section 20(1)(ii) of the Penal Code Act. 2 *Mothobi vs Director of Prosecution* (C of A No.4 of 2019) [2022] LSCA 24 (15 May 2022)
- [7] Murder is the most serious offence that can be committed against a human being since once taken, a human life cannot be restored. The courts should thus impose sentences that will not only serve to venerate the sanctity of life but also deter the would-be offenders.
- [8] The accused has been reported to be the first offender. He contributed to the burial of the deceased and he is further willing to compensate the deceased's family. These, coupled with the fact that he pleaded guilty, though to a lesser charge, are the indicators of a man who is remorseful for his deeds.
- [9] The accused's undertaking to compensate the deceased's family should however not absolve him from being accountable for the crime that he has committed. As a member of the discipline forces, he should know better when to shoot to kill. While the objective of the criminal justice system is not compensation, but maintenance of law and order, the court

has considered that a suspended sentence that is coupled with a retributive condition would serve a just purpose to the family of the deceased, especially for the benefit of the five children that are surviving the deceased.

- [10] Having the foregoing factors, the court finds that a just penalty in the circumstances of this case is five (5) years imprisonment which is wholly suspended for three (3) years on conditions that the accused compensates the family of the deceased with fifteen thousand (M15,000.00) within six (6) months of this sentence and that he is not found guilty of the offence involving violence during the period of suspension. The Crown, the defence, and the family of the deceased should report to the court on or before the 23rd day of April 2024 on the fulfillment of the compensation condition. The Assessors agree.

M. RALEBESE JUDGE For the Crown: For the Defence: Adv. Fuma Adv. Masoabi 6

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://lesotholii.org/judgments/all/2023/?alphabet=r>

CASE PAGE <https://chat.esheria.ai/case-law/lesotho/murder-high-court-2023--6a3ea4e03b1caa91297ec31d>

Prepared on 27 October 2026 · Esheria