

SOUTH AFRICA / JUDGMENT

S v C.S.M (30/2016) [2016] ZALMPTHC 12 (4 March 2016)

[2016] ZALMPTHC 12

COURT

Limpopo High Court, Thohoyandou

BEFORE

T J Raulinga, MG Phatudi

CASE / FILE NUMBER

30/2016

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IN

THE HIGH COURT OF SOUTH AFRICA

LIMPOPO

LOCAL DIVISION, THOHOYANDOU

REV

CASE NO: 30/2016

DATE:

04 MARCH 2016

In

the matter between:

THE

STATE

AND

[C.....]

[S.....] [M.....]

REVIEW

JUDGMENT

RAULINGA J:

- [1] This is an automatic review emanating from Malamulele District Court and placed before me in terms of section 302 of the Criminal Procedure Act, 51 of 1977 ("the CPA").
- [2] The accused in this case was convicted of the offence of assault with intent to do grievous bodily harm. This followed an assault on his wife by releasing a stone from a catapult aimed at the complainant, which subsequently struck her on the mouth causing some injuries.
- [3] I am convinced that the state proved its case beyond a reasonable doubt and therefore the conviction is in order.
- [4] I am however concerned that the sentence is too severe, which warrants urgent intervention. The circumstances of the matter demand that it be dealt with urgently, otherwise the accused may be severely prejudiced- section 302 (2) (a) of the CPA.
- [5] The accused assaulted his wife in circumstances where a quarrel ensued on a domestic dispute. He is not employed, but performs some odd jobs by picking firewood and selling it and earns some R700.00 per month. His age is not reflected on the record. In fact, his personal circumstances are scantily recorded. Despite this, he was hurriedly sentenced to R12 000.00 or 12 months imprisonment.
- [6] It is trite that before an accused is sentenced, a court sentencing him must obtain all the relevant circumstances pertaining to the accused. Courts are obliged to actively participating in the sentencing of accused persons.
- [7] As indicated above, it is not clear how old the accused is. All we know is that he has seven children and a first offender.
- [8] What is also worrying is the manner in which the accused was treated with during the sentencing stage. The presiding officer allowed the prosecutor to call him names - "that he is barbaric and primitive". No accused person can be treated with disdain and disrespect. The presiding officer ought to have intervened to ensure that the accused is treated with dignity and respect.
- [9] Accordingly I propose the following order:
 - 9.1. The conviction is confirmed.
 - 9.2. The sentence is set aside and substituted with the following: 9.2.1. The accused is sentence to a fine of R600 or 3 months imprisonment.

T J RAULINGA

JUDGE OF THE HIGH COURT

I agree

MG PHATUDI

ACTING JUDGE OF THE HIGH COURT

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Prepared on 10 October 2026 · Esheria