

THE STATE**Versus****MIGHT SIBANDA**

IN THE HIGH COURT OF ZIMBABWE

MOYO J with Assessors Mr T. E. Ndlovu and Mr G. Maphos

HWANGE 3 OCTOBER 2022

Criminal Trial*Mrs C. Garirano* for the state*Ms J. Change* for the accused

MOYO J: Accused faces a charge of murder, it being alleged that on the 12th of September 2021, and in the grazing lands of Bhuda Village, Nyamandlovu, the accused unlawfully caused the death of Mlungisi Denvour Msunga by stabbing him once on the stomach with a home-made knife and thereby killing him. He pleaded not guilty by reason of insanity. The state counsel accepted the plea and the parties drew a statement of agreed facts which was tendered and marked exhibit 1. It reads as follows:

- “1. The accused was 25 years of age at the time this offence was committed and he resides at Christine Sibanda’s homestead Bhuda Village 98 Chief Dezi, Nyamandlovu.
2. The deceased was aged 19 years at the time she met her death and she resided at Robert Mpofu’s homestead, Bhuda Village 98, Chief Dezi, Nyamandlovu.
3. On the 15th of September 2021, the deceased, Honest Mhlanga and Nkosiphile Mpofu had a misunderstanding with the accused. The misunderstanding resulted in a fist fight in which the three of them teamed up against the accused and overpowered him.
4. On the 17th of September 2021 and at around 1600 hours Nkosipjile Mpofu and deceased was walking along a foot path going towards Sawmills Railway Main Station to look for their cattle in the grazing area when they met the accused who was going in the opposite direction.
5. They exchanged greetings, and accused accompanied them for about 100 metres. They engaged in a conversation. Nkosiphile Mpofu and the deceased apologized to the accused for their previous misunderstanding on the 15th of September 2021.
6. As they walked along and conversed, accused withdrew a homemade knife from his trousers pocket and said “*I will stab you young man*” and proceeded to stab the deceased once on the abdomen. Deceased ran away and accused gave chase holding a silver homemade knife.

7. The accused then turned back and charged towards Nkosiphile and Nkosiphile ran away. Nkosiphile went home and called Robert Mpofu who is deceased's grandfather.
8. On their way to the scene they met Lawrence Mlilo who told them that he had seen the deceased lying injured in the grazing fields, deceased's intestines were protruding from the stomach."

Also tendered was the psychiatrist report on accused's mental status. It was marked exhibit 2. The State counsel also tendered the post mortem report. It give the cause of death as;

1. Hypnovolemic shock
2. Stab wound

State counsel tendered a knife that was allegedly used marked exhibit 4. From the evidence tendered before this court, the accused person cannot be held criminally liable for his actions as he was mentally challenged at the material time.

1. The accused person is accordingly found not guilty by reason of insanity and is acquitted on the charge of murder.
2. The accused person must however be committed to Mlondolozu Mental Institution as he is a danger to society.

National Prosecuting Authority, state's legal practitioners
Mviringi & Associates, accused's legal practitioners