

THE STATE  
versus  
PAUL MUTEZO

HIGH COURT OF ZIMBABWE  
MUREMBA J  
HARARE; 27-29 February; 15, 18 & 25 March 2024

**Criminal Trial**

**Assessors:** Mr *Mhandu*  
Mrs *Chitsiga*

Ms *R. M Mushonga*, for the State  
*T Chakurira*, for the accused

**MUREMBA J:** The accused is facing a charge of murder as defined in s 47(1) of the Criminal Law Codification and Reform Act [*Chapter 9:23*] (The Criminal Law Code). It is alleged that on the 11<sup>th</sup> of June 2023 at around 2100 hours at house number 2060 Overspill, Epworth, Harare, he murdered his wife Tsitsi Munemo by striking her on the head with a deformed bar several times. The accused person pleaded not guilty to the charge.

In his defence outline the accused said that at the time material to the commission of the offence, he was suffering from a mental disorder which rendered him incapable of appreciating the consequences and the unlawfulness of his conduct. He said that he started receiving treatment for his mental disorder sometime in January 2022 at Harare Hospital where he was taken to by his relatives. He said that at the hospital he was diagnosed and confirmed as having been afflicted with a mental disorder. He said that he remained on treatment since then and throughout the period leading to the time material to the incident forming the factual background of the present charge against him. He further stated that his mental disorder alternated between stable and unstable throughout the period. The accused said that he did not have a clear recollection of the acts he would perform or the things he would say during the time he would be ill. His relatives are the ones that would tell him about his behaviour while afflicted with the mental illness. He said that his mental disorder on the fateful night was

triggered by the infidelity of the deceased which he had discovered immediately prior to the incident leading to the death of the deceased.

*The State's evidence*

The State produced the post-mortem report as exhibit no. 1 with the consent of the defence. The report states that the deceased's death was caused by blunt force injuries to the head. Doctor Muzenda who examined the remains of the deceased made the following findings and comments. Bleeding inside the skull (subdural haemorrhage); flattening of gyri and narrowing of sulci of the brain, consistent with brain swelling; subgaleal haemorrhage over the left temporal and parietal areas; fractures involving left skull vault and base of skull; fracture of the lower jaw (mandible). The doctor did not give *viva voce* evidence. His evidence was formally admitted in terms of s 314 of the Criminal Procedure and Evidence Act (the CPEA) with the consent of the defence. The State went on to produce the accused's confirmed warned and cautioned statement as exhibit no. 2 with the consent of the defence. The statement was recorded by the Investigating Officer Assistant Inspector Mabasa on 13 June 2023 at 0900 at ZRP Epworth. In the statement the accused said, "*I admit to the charge.*" With the consent of the defence, the State produced the deformed iron bar that was used to assault the deceased as well as the weight certificate thereof as exhibits No. 3 and 4 respectively. The deformed bar weighed 1926 grams.

The State led evidence from three witnesses, namely Rueben Fidze, Mabo Chimungungu, Dickson Mutezo. It also led evidence from James Mabasa who was the investigating officer. Rueben Fidze, who resides at 346 Muguta, Epworth, Harare, recounted his experience as follows. He was familiar with the deceased, who was married to his brother-in-law, the accused. Rueben had known her for a brief period, less than six months before the incident. Rueben shared a cordial relationship with the accused, his wife's brother. In the early hours of June 12, 2023, after 2 am, he was awakened by a knock at his door. It was the accused, who, despite appearing troubled, insisted that Rueben accompany him to his house without disclosing the reason. The journey to the accused's residence, a mere 10-minute walk, was shrouded in silence and unease as the accused continuously refused to disclose what was wrong. Upon arrival, the accused led the way.

As the accused was opening the door to the house, he confessed to assaulting the deceased. The witness, Rueben, illuminated the scene with a torch and discovered the deceased lying motionless on the floor in the dining room where the two used to sleep. The deceased was bleeding from the head. She was partially covered by a blanket, and her injuries were

obscured by her hair weave. The accused asked Rueben what they were to do. Rueben urged immediate medical attention as the deceased was still breathing. The accused revealed a quarrel over messages the deceased had deleted from her phone, but he did not disclose further details of those messages.

When the accused went out of the house in order to bring his car closer to the door, Rueben alerted the accused's mother, Mabo Chimungungu, who lived with the accused, the deceased, and their daughter, to the tragic incident. Rueben also called the accused's brother, Dickson Mutezo, who lived in the same neighbourhood to the scene. Together, they transported the deceased to Parirenyatwa Hospital in the accused's car. It is the accused who was driving. At the hospital, while the accused's brother handled admission procedures, the accused and the witness went to notify the police about the incident at the police post. Despite being alive upon arrival at the hospital, the deceased passed away as she was being attended to by a doctor. The accused was immediately arrested. During cross-examination, Rueben was questioned about the accused's mental health incident in 2022. He said that he knew nothing about the accused's mental illness. However, he acknowledged hearing about an assault on the accused that led to the accused being taken to hospital. He said he received this information from his wife Rudo Mutezo. Rueben said he had limited observation of the accused's mental state due to his work schedule and working hours.

Mebo Chimungungu, the accused's mother, testified that she had only known the deceased, her daughter-in-law, for six months, as she began living with them following the accused's mental health episode in January 2023. On the night in question as she was sleeping in her bedroom she was alerted by a scream. The accused, his wife and their three-year-old daughter were sleeping in the dining room. She asked if all was well but there was no response. She went back to sleep. Later on, her son-in-law Rueben knocked at her door and asked her to come into the dining room. Upon entering the dining room, she found the deceased lying on the floor where she had been sleeping, bleeding from the head, with her daughter sitting silently beside her. A lot of blood was flowing onto the pillows and blanket. After securing the child, she instructed the men to take the deceased to the hospital. Her other son Dickson Mutezo had come.

The accused's mother testified that her son had no history of mental illness until after an assault by a group, which led to him being taken to Harare hospital. This incident happened when the accused and his wife were staying in Waterfalls. The accused's mental health deteriorated and he came with his wife and daughter to stay with her at her house in Epworth.

The accused's behaviour had become erratic. He was proclaiming divine instructions to start a religious sect and would become violent towards others, except for her, his wife and brother. To manage his violent behaviour, they would sometimes restrain him to a tree. He had been taken to Harare hospital twice. Despite being prescribed medication, he never received a psychiatric evaluation due to financial constraints. The mother described the accused's mental state as fluctuating between lucid and non-lucid periods, with the former lasting longer. He would be lucid for three weeks and non-lucid for two weeks. At one point the accused was taken to a traditional healer in Mbare by his brother and sister. In the days leading up to the incident, he was notably silent and withdrawn. The only person that he would talk to was his wife, the deceased. The mother was unaware of any infidelity issues that might have been a factor in the disagreement between the accused and the deceased. The accused's adherence to medication on the day of the incident was uncertain, as the deceased was responsible for administering it. The accused did not spend the day at home as he was attending prayers at an apostolic sect with his brother Dickson Mutezo.

Dickson Mutezo, the accused's elder brother, resides at number 2414 Overspill, Epworth, Harare. He knew the deceased as his sister-in-law and had known her since 2022 when she was staying with the accused. The deceased and the accused had a child named Angel. On the fateful night, he received a phone call from his brother-in-law Rueben Fidze, informing him of an emergency. He was asked to rush to his mother's house. Upon arriving at the house, he found Rueben and the accused holding the deceased, who was wrapped in a blanket. There was blood on her shoulder. He asked what had happened, and Rueben Fidze responded by telling him that the accused had injured the deceased. They needed to rush her to the hospital. During the car ride to the hospital, the accused kept talking to himself in a low tone. The accused was driving the car, which belonged to him. At the hospital the deceased died as she was being attended to by one Dr. Musona. Dickson Mutezo said that the accused later told him that he had seen some messages in the deceased's phone, and that she was cheating on him.

In the unfolding events described by this witness, we gain insight into the accused's mental state and the efforts made to address it. The witness recounted receiving a call from the deceased in January 2023, alerting him that the accused was behaving erratically, running and shouting toward Koala Park. The witness promptly sought assistance, enlisting his sister and a spiritual leader, Madzibaba, to help apprehend the accused. Upon encountering the accused, the witness found him in a combative mood. It was only when the deceased addressed him by

their child's name that he calmed down. They apprehended him and proceeded with him to his residence in Waterfalls, where they planned to use his car to transport him to their mother's house. However, touching the accused's car triggered another aggressive episode. Undeterred, they eventually reached their mother's residence, where the accused's violence escalated. They sought assistance from other people in order to contain him. They then took him to Harare Hospital, where he received injections. They were instructed to purchase specific tablets for his condition. Subsequently, he was cared for at his mother's home, where medication induced sleep. The witness and his family continued their search for solutions. Traditional healers and apostolic sects were consulted, including one Baba Kaipa. As the situation deteriorated, they turned to Mamoyo, who then referred them to Sekuru Svova in Mbare. Under Sekuru Svova's care, the accused regained clarity, and they were advised to visit their rural area for a lasting solution. Following this guidance, they travelled to Mount Darwin, their mother's communal home. There, another advisor reinforced the importance of visiting their communal home. The family went to Bvumba, Mutare, and witnessed continued improvement in the accused's condition. Encouraged by progress, they returned to Epworth, where they closely monitored the accused's well-being at their mother's house. Eventually, they resumed their own lives, leaving the accused in the care of their mother and his wife.

During cross-examination, the witness said that when the accused was arrested, he (the witness) informed the investigating officer, James Mabasa, about the accused's mental illness. The witness said that financial constraints prevented further hospital visits. The witness said that the accused did not consume any intoxicating substances. After the accused's release on bail, he resided with the witness and exhibited signs of illness. Unfortunately, due to financial constraints resulting from unemployment, the witness was unable to seek medical assistance for the accused. It was the accused's friends who stepped in to provide the necessary funds for bail.

James Mabasa, a police officer stationed at Epworth Police Station, testified about his involvement in the investigation. In June 2023, he received the assignment to investigate this case. Upon learning that the accused was detained at Harare Central Police Station, he went to retrieve him and transported him to Epworth Police Station. There, he recorded the accused's warned and caution statement, which confirmed his culpability in the fatal killing of his wife. Accompanied by Officer Munyoro and other witnesses, they visited the crime scene. There were no signs of struggle in the dining room where the deceased was assaulted. There were no broken plates or scattered items. Instead, they discovered two blood-soaked pillows and a

blanket on the floor. These items were initially taken by CID Law and Order but later deemed unnecessary and returned to the family. At the crime scene they also recovered the murder weapon, a blood-stained deformed iron bar. They retrieved it from a mealie meal sack where it was being used as a stopper to prevent cockroaches and rodents. James Mabasa took it to Parirenyatwa Hospital for the post-mortem examination. The doctor's findings revealed that the injuries on the deceased were consistent with the weapon's impact. There were no other injuries apart from those inflicted on the head, suggesting no struggle occurred. The skull bore deformities, and the area just above the eye had collapsed.

The investigating officer, James Mabasa, said he interviewed the accused's brother, Dickson Mutezo. Dickson revealed that the accused suffered from mental illness and had moved in with their mother for care. James requested medical cards as evidence, but Dickson promised to provide them without following through. Attempts to follow up on the cards were futile as Dickson indicated that there had been a break-in at the accused's house, and that the cards could not be found. James said when he collected the accused from Harare Central Police Station, he observed no signs of mental illness. The accused appeared sober, scared, and remorseful. Without Dickson's information, James would have remained unaware of the accused's condition, as their interaction revealed no abnormalities.

#### *The accused's evidence*

The accused steadfastly maintained his defence of mental illness. He recounted being diagnosed in January 2023 and seeking treatment from both a hospital and traditional healer, Peter Netsai Rakandwa, as well as an apostolic faith bishop, Moffat Kaipa, both of whom he called as defense witnesses. Exhibit no. 5, a medical card that the accused produced, indicates that he was first treated on January 19, 2022. At the time, he exhibited violent behaviour. Dr Machonje, who attended to him, noted a history of substance abuse but found no evidence of psychiatric disorders. The doctor raised questions about whether the accused's illness was related to substance abuse. The doctor recommended the accused to see a psychologist or a psychiatrist, it is not clear. The medical card reveals that on January 19, 2023, the accused was attended to by Dr. Musimwa. The doctor observed that the accused was tied and talkative and identified this as a case of substance misuse. Specifically, the accused admitted to daily cannabis use. Despite having no psychiatric history, the accused's uncle was also reported to use cannabis. Dr. Musimwa prescribed CPZ (Chlorpromazine), an antipsychotic medication, along with a recommendation for the accused to consult a psychologist. The accused claimed

to have been taking medication for mental illness until August 2023, but his medical card contradicts this statement. The card indicates that he was treated on January 19, 2023, and thereafter, there is no record of further hospital visits. Moreover, the prescribed medication from January could not have lasted until August 2023. According to the accused, his actions on the fateful night were beyond his awareness due to his mental condition. The accused's counsel did not prompt the accused to recount the events leading to the fatal incident when he killed his wife. Additionally, the accused was not questioned about his admission of daily cannabis use to medical doctors, which dates back to January 2022. During cross-examination, the State counsel did not inquire about the events leading to the fatal incident when the accused killed the deceased on that fateful night. Instead, she focused on the accused's efforts to seek help from his brother-in-law after assaulting the deceased.

The accused finally disclosed the full account of what transpired on the fateful night when the court sought clarification on matters that had remained unclear during both the State's and the defence counsels' questioning. The accused provided insight into how the events unfolded that evening. He explained that he had spent the day with his brother, Dickson Mutezo, seeking help from the apostolic sect. Fatigued from their efforts, he returned home around 6 PM and rested on a sofa at his mother's residence. He later went to the shops to collect the deceased, who had returned from work. She had called him to pick her up. Upon arriving home, the deceased began preparing a meal. The accused requested her phone to view cartoons downloaded for their child, Angel. The accused and the deceased retired to bed, but their night took an unusual turn. The accused woke up to perform an oil ritual at midnight, as instructed. The deceased had also awakened, and they whiled away the time as the oil burned. Seated on the sofa, the accused stood up once the oil was fully consumed, covering himself in its fumes. Meanwhile, the deceased received messages on her cell phone, sparking his curiosity. When he inquired about her communication, she dismissed him, labelling him as "crazy." Feeling dizzy from the oil's smoke, he eventually returned to sleep on the floor. Later, the deceased woke him, urging him to join her in bed. However, the lingering effects of the oil prevented an immediate return to bed. The deceased demanded to see the messages he had mentioned earlier. However, she had already deleted them. Undeterred, she continued shouting insults, accusing him of madness. In the throes of this confrontation, the accused witnessed a horrifying transformation: the deceased's head morphed into that of an unidentifiable creature—a pig or some other beast. Startled and convinced that the pig or the unidentifiable creature was the source of his madness, he seized an object, and struck the head of the creature

twice. The deceased screamed and he realised that he had struck her. Seeking aid, he turned to his brother-in-law, Rueben Fidze.

The accused asserted that he called Rueben Fidze because he believed Rueben could assist in taking his injured wife to the hospital. He said witnessing the severity of her injuries, he urgently sought help. He said he deliberately bypassed notifying his mother beforehand, fearing delay in seeking medical assistance. The accused said his decision to inform Rueben about the incident just before entering his mother's house was driven by concern that Rueben might refuse to help if informed earlier. However, when confronted with his medical card, which indicated a visit to Harare Hospital on January 19, 2023, and being seen by Doctor Musimwa and making an admission of cannabis and cigarette use, the accused claimed not to recall the details of that encounter.

In the accused's defence, Moffat Kaipa, a bishop and founder of Christ Apostolic Faith Church residing in Epworth, testified as a witness. He knew the accused, who was born in Epworth where he resides. Moffat was well aware of the accused's mental illness. The information was conveyed to him by the accused's brother, Dickson Mutezo in 2023. At that time, Dickson was a tenant at Moffat's house. They engaged in prayers for approximately three months before Moffat departed for a church camp in early June 2023. In his testimony, the witness described the accused's fluctuating behaviour, which ranged from moments of normalcy to sudden bouts of laughter during prayers. He would even accuse his mother of bewitching him. The week before the witness left for a church camp, the accused confided in him about his wife's troubling conduct. He said that the deceased, who was the sole breadwinner, was exhibiting rudeness and stubbornness towards him. The accused was not working at the time. Frustrated, the accused said that he sought refuge by playing with their child. The witness advised him to continue this coping mechanism. Tragically, before the underlying cause of the accused's mental illness could be established, he killed his wife.

Peter Netsai Rakandwa, a traditional healer residing in Mbare, testified about his encounters with the accused. He said he has been in traditional healing for 22 years. He however did not bring his certificates from ZINATA as no one had asked him to bring them. He said that when the accused was brought to him by his family in 2023, he exhibited signs of mental distress. He was tied and his tongue was protruding from his mouth and swollen. Peter assisted him, and the swelling subsided. The tongue went back to normal. The accused sought Peter's help three times: twice with his family and once alone. Peter attributed the mental illness to some spirits, noting that the accused's younger brother also suffered from a similar

condition. The witness, Peter Netsai Rakandwa, said he provided assistance to both the accused and his younger brother, who suffer from mental illness. He said the accused's young brother was brought to him much later after the accused. He said that their healing remains incomplete due to the family's failure to pay the required compensation in the family. When asked about a medical doctor's assertion that the accused's mental illness resulted from drug abuse, Peter acknowledged that he once reprimanded the accused for smoking cannabis (dagga) at his place when he came for treatment. He said he had to intervene and disallow him from smoking. During cross-examination, the witness explained that the accused visited him alone on the third occasion because he was feeling better. The purpose of this visit was to obtain a resupply of snuff. Remarkably, the accused arrived with a child, driving, and appeared normal. He even brought beer as a gesture. He had no recollection of the dates when the accused had visited him. He was however certain that this had happened before June 2023. It is the accused's family who told the witness that the accused had killed his wife and by the time he was told this, the accused had long stopped coming for treatment. The witness said that he had assumed that the accused had healed.

*Analysis of evidence*

The undisputed facts reveal that the accused struck the deceased with a deformed iron bar, resulting in fatal injuries. The critical question is whether the accused was mentally disordered at the time of this act. Section 227 of the Criminal Law Code specifically addresses mental disorder during the commission of a crime. The provision reads as follows:

**“Mental disorder at time of commission of crime**

- (1) The fact that a person charged with a crime was suffering from a mental disorder or defect when the person did or omitted to do anything which is an essential element of the crime charged shall be a complete defence to the charge if the mental disorder or defect made him or her—
  - (a) incapable of appreciating the nature of his or her conduct, or that his or her conduct was unlawful, or both; or
  - (b) incapable, notwithstanding that he or she appreciated the nature of his or her conduct, or that his or her conduct was unlawful, or both, of acting in accordance with such an appreciation.
- (2) For the purposes of subsection (1), the cause and duration of the mental disorder or defect shall be immaterial.
- (3) Subsection (1) shall not apply to a mental disorder or defect which is neither permanent nor long-lasting, suffered by a person as a result of voluntary intoxication as defined in section two hundred and nineteen.”

This provision pertains to the defence of mental disorder at the time a crime was committed. The following are the key points. If a person charged with a crime was suffering from a mental disorder or defect when they committed an act that is an essential element of the

crime, it can serve as a complete defence to the charge. This defence applies if the mental disorder or defect made the person:

- (a) Incapable of appreciating the nature of their conduct, or that their conduct was unlawful, or both; or
- (b) Incapable, even if they understood the nature of their conduct and its unlawfulness, of acting in accordance with that understanding.

The cause and duration of the mental disorder or defect are irrelevant for the purposes of this defence. However, this defence does not apply to a mental disorder or defect that is neither permanent nor long-lasting and results from voluntary intoxication as defined in section 219. In terms of s 219, voluntary intoxication means intoxication which is voluntarily self-induced, for instance drug abuse. Therefore, if an accused's mental illness is directly linked to voluntary intoxication, this defence would not be applicable. The accused's mental state during the incident is a critical factor.

In terms of s 18 of the Criminal Law Code, the onus is on the accused to prove, on a balance of probabilities, that he was mentally disordered at the time of the commission of the offence. The accused must do so in line with s 29 (2) of the Mental Health Act [*Chapter 15:12*] which requires that there be evidence which must be given at trial. The provision reads as follows:

“If a judge or magistrate presiding over a criminal trial is satisfied from evidence, including medical evidence, given at the trial that the accused person did the act constituting the offence charged or any other offence of which he may be convicted on the charge, but that when he did the act he was mentally disordered or intellectually handicapped so as to have a complete defence in terms of section 227 of the Criminal Law Code, the judge or magistrate shall return a special verdict to the effect that the accused person is not guilty because of insanity.”

In the current case, evidence was presented by both State and defence witnesses regarding the accused's mental health in early 2023. However, the defence failed to produce medical evidence demonstrating that the accused was mentally disordered at the time of the offence on June 12, 2023. Exhibit 5, an old medical card, revealed that the accused was treated twice at Harare Hospital in January 2022 and January 2023. On both occasions, he was diagnosed with cannabis use, with the situation worsening in January 2023 when he used it daily without quantification. Afterward, the accused did not return to the hospital for treatment. The evidence revealed that the accused had turned to traditional healers and faith healers. However, when he committed the offence on June 12, 2023, it had been a considerable amount of time since he had last consulted either of the two witnesses he called as defence witnesses.

They were unable to provide any information about his mental state as at the time of the assault. Even his mother and brother could not offer any testimony in his defence. There is no documented record of the accused undergoing psychiatric or psychological examination just before or after committing the offence. The accused did not inform the investigating officer about his history of mental illness or his condition at the time of the crime. The officer learnt about the accused's mental health history from the accused's brother. Although the accused displayed sadness and remorse, there were no apparent signs of mental disorder to the officer. Throughout the trial, the accused remained normal, despite not being on any mental illness medication. While in prison before being granted bail, the accused was not on any medication for mental illness. No evidence was tendered to show that the accused was on medication whilst in prison.

Considering the evidence presented, including the accused's ability to clearly recount the events leading up to the assault on his wife, it remains difficult to definitively conclude that he was mentally ill when he committed the act. The accused demonstrated a strong and vivid memory of the tragic night, with no lapses. His testimony indicated that during previous illnesses, he would be unaware of his actions, relying on relatives to inform him. Therefore, the consistent memory of the fateful night suggests that he was in control of his faculties. The accused's actions also suggest that he was in control and making rational decisions at the time of the incident. Despite assaulting his wife, he thought to seek help from Rueben Fidze. He withheld the truth from his mother to avoid delays in seeking assistance for the deceased. Additionally, he drove the motor vehicle to Parirenyatwa Hospital, further indicating rational decision-making. In light of these behaviours, which include driving a motor vehicle and receiving no objection from relatives, it appears that the accused was not mentally disordered during the events.

Therefore, the defence failed to prove on a balance of probabilities that the accused was mentally disordered at the time that he assaulted the deceased. Exhibit No. 5, introduced by the accused in support of his case, reveals that he was using cannabis daily. Additionally, the traditional healer, called as a defence witness, testified that the accused smoked dagga during treatment and had to be prohibited from doing so. These pieces of evidence suggest that the accused's mental illness may have been self-induced. As discussed elsewhere above, the defence of mental disorder cannot be used if the accused's mental illness is directly connected to voluntary intoxication. Therefore, in *casu*, even if the defence had demonstrated that the

accused was mentally disordered during the offence, they would also need to prove that his mental illness was not caused by the cannabis he was using.

In view of the foregoing, we hereby dismiss the accused's defence that he was mentally disordered when he fatally assaulted his wife on the night of 12 June 2023. Based on the account, the accused gave about the events leading to him assaulting the deceased, this incident exhibits characteristics of a crime of passion. The accused's emotional state is evident throughout the narrative the accused gave. From the time the deceased arrived from work he asked for her phone. When the deceased started receiving messages on her phone as he was doing his oil ritual, he experienced curiosity, jealousy, and anger, which are typical emotions associated with crimes of passion. The deceased's actions of dismissing the accused when he enquired about the messages, deleting those messages and shouting insults at him could be seen as provocation by the accused. The accused's perception of her transformation into an unidentifiable creature further fuelled his emotional response. The accused's immediate reaction of seizing an object and striking the deceased's head demonstrates impulsivity rather than premeditation. The accused did not have time to cool off between the time the deceased was insulting him and the time he committed the violent act. The accused is a person who had already expressed frustration to Bishop Kuipa due to his wife's rudeness and stubbornness. He had reported that she had no respect for him because he was not working. His emotional distress was evident as he sought refuge by playing with their child. The deceased's past behaviour of rudeness, stubbornness, and the suspected infidelity triggered the accused's emotional response on the fateful night.

In the circumstances of this case, the accused is found guilty of murder. However, the circumstances surrounding the murder do not indicate an intention to kill the deceased on the part of the accused. The accused's actions were impulsive, provoked by the deceased's behaviour on the fateful night. The State did not dispute the account provided by the accused, and there was no one else present in the room to challenge it. According to the accused, the deceased deleted messages from her phone, and when questioned, she insulted him repeatedly calling him 'crazy' when he is a person with a history of mental illness. This was obviously an emotive issue for the accused and the insults must have had a powerful impact on him. In the heat of the moment, reason fled from the accused. He grabbed an iron bar from a sack of mealie meal and struck her. Given these circumstances, the accused is found guilty of murder under s 47 (1) (b) of the Criminal Law (Codification and Reform) Act.

*National Prosecuting Authority, State's legal practitioners*  
*Zimudzi and Associates, accused's legal practitioners*