

THE STATE
versus
JETHRO RONDODZANI
and
EDSON CHAWIRA

HIGH COURT OF ZIMBABWE
MUNGWARI J
HARARE, 10 & 25 March and 20 July 2022

Assessors

1. Mr Kunaka
2. Mr Chakuvinga

Criminal Trial

M Mugabe, for the state
K Hanyani- Mlambo, for the 1st accused
G Ganda, for the 2nd accused

MUNGWARI J: The two accused are soldiers in the Zimbabwe National Army. They hold different ranks. Both were arrested on the 15 October 2018 and charged with the murder of Tafadzwa Saidi (herein after “the deceased”) in contravention of section 47(1)(a) of the Criminal Law (Codification and Reform) Act [*Chapter 9:23*].

On the fateful night the two had been drinking beer with the deceased at a bar called Chigayo Inn in Chishawasha. Thereat, they had revelled and partaken alcoholic drinks from the night of 14 October into the early hours of 15 October 2018. At around 0020 hours they were ordered to leave the bar. They complied. The accused persons and one Simbarashe Soko (herein after “Soko”) went in one group. The deceased and a workmate of the accused called Simba Makumbe (herein after “Simba”) walked together some metres behind the accused persons’ group. As they walked, an unknown informer raised alarm that Simba was being assaulted. The two accused ran back to the aid of Simba. The accused found the deceased at the corner of Enterprise Road and Polland Valley Road. They accused him of harassing Simba. They pounced on the deceased and assaulted him indiscriminately with open hands and sticks several times causing injuries from which the deceased succumbed to. They each took turns to do so. The accused persons were restrained from assaulting deceased further by Soko who had also arrived at the scene. They left deceased and proceeded with their journey home.

Some few hours later the deceased was found at the scene in a poorly condition. He was ferried to St Joseph's Clinic for medical attention. Because of the severity of the injuries, he was transferred to Parirenyatwa hospital for further management. Tragically, he was pronounced dead on arrival at Parirenyatwa. The pathologist who conducted the autopsy of the deceased's remains concluded that the cause of death was severe pulmonary oedema, big haematomes on the right buttock, left pulmonary contusion and multiple injuries.

Both accused persons pleaded not guilty. In denying the charge they tendered an identical account of what they allege to have happened on the day in question. While they admitted having assaulted the deceased with sticks, they denied having intended to cause his death nor having foreseen the possibility or likelihood of the assault resulting in the deceased's death. Their version was that they had walked ahead of their colleague Simba, who trailed behind in the company of his girlfriend. They both say they heard someone alert them that Simba was being assaulted. They turned back and ran to rescue him. On arrival they saw the deceased and some other man assaulting Simba. The unknown man ran away but deceased did not. Instead, the deceased fell into a water way. Shortly afterwards, they broke branches from a nearby tree and used them to assault deceased on the buttocks. They both conceded to having caused injuries on deceased's back, legs and buttocks and that they were restrained from further assaulting deceased by Soko when he arrived at the scene. They then observed the deceased staggering as he fled the scene.

In conclusion of their account of what transpired, the accused suggested that the altercation that deceased had with Simba prior to their arrival on the scene might have caused the injuries observed by the pathologist in the post-mortem report. They also suggested that the injuries could have been caused by a fall that the deceased could have had after he staggered from the scene. According to their version there is no evidence linking the two of them to the death of the deceased.

STATE'S CASE

Common cause facts

As is apparent from the similar accounts in both the state outline and the defence outline there are numerous facts which are common cause. In addition to those the cause of death was also uncontested. According to the forensic pathologist Dr Yehilyn Iglisias who examined the body of the deceased at Parirenyatwa hospital on the 18 October 2018, the following multiple injuries were observed on the deceased's body:

1. “Multiple lineal abrasions located at the level of the backside of the right arm
2. Plaque abrasions above the right brow
3. Plaque abrasion in the external angle of the right eye
4. Plaque abrasion with echinotic area located on the left hip
5. Plaque abrasion on the external side of the right flexion of elbow
6. Big haematoms with multiple abrasions and bruises above on the right buttock
7. Two plaque abrasion with large form obliques located on the right external lateral side of the chest
8. Plaque abrasion on the external side of the right knee
9. Haematoma in the external lateral side of the right buttock with multiple abrasions above
10. Plaque abrasion located on the clisk middle third of the right leg

In the final analysis he concluded that, the cause of death was from

- a) Severe pulmonary oedema
- b) Big haematoms on the right buttock and left pulmonary contusion
- c) Multiple injuries

He also noted other significant conditions such as

1. a Right pneumonitis

He then commented that: The injuries were produced by a blunt object”

With the consent of the defence the state tendered into evidence a copy of Dr. Yehilyn Iglisias’ post-mortem report. The court admitted it as Exhibit 1. We shall revert to these findings later in the judgment.

The state also tendered the confirmed warned and cautioned statements of both accused with the consent of the defence. They were admitted as Exhibits 2 and 3 respectively. Of particular importance is the following extract from each of their warned and cautioned statements.

Accused 1: *“I do admit to the charge. I was coming from a beer drink from Chigayo as I was in the company of Edson Chawira, Simbarashe Soko and Simbarashe Makumbe. Simbarashe Makumbe was following behind us. We heard someone shout that Simbarashe Makumbe was being assaulted. Edson Chawira and I went back and found Simbarashe standing with two men and the other man soon fled from the scene. We caught the other man. Rondozaï and I started assaulting him with a switch. Simbarashe Shoko came and restrained us warning us to stop assaulting him. We eventually left and he fled into a nearby bushy area.”*

Accused 2: *“I admit to the charge. On the day in question we were coming from a beer drink at Chigayo as I was in the company of Jethro Rondozaï, Simbarashe Soko, and Simbarashe Makumbe. Simbarashe Makumbe was following well behind us as we were walking. We then heard a voice shouting that*

Simbarashe Makumbe was being attacked. We went back with Jethro Rondodzaï and found Simba standing with a certain man as the other man fled from the scene. We caught the now deceased

whereupon Jethro Rondozaï and I assaulted him with switch. Simbarashe Soko came and restrained us. He asked us to leave him and after doing so the deceased fled into a nearby bushy area”

The evidence of Nkosana Khumalo and Detective Sergeant Mafusire was uncontested. It was formally admitted as evidence in terms of section 314 of the Criminal Procedure and Evidence Act [Cap 9:23] The gist of Nkosana’s testimony was to confirm that his workmates the accused persons left their duty station on the 14 October 2018 for an unknown destination. They never reported back for duty nor informed him of what had happened at the Inn. His evidence had already been made common cause hence its non-contestation.

Detective Sergeant Mafusire was the investigating officer in the murder of the deceased. He recorded statements from all the witnesses as well as the accused’s warned and cautioned statements. His evidence was also not contested.

Issues for determination

With the above issues being common cause, the only issues for determination were:

- a) whether the assault of the deceased by the accused caused his death
- b) if it did, whether the accused intended to cause the deceased’s death or realised that there was a real risk or possibility that their conduct may cause the death of the deceased

To prove these issues, the State sought to rely on the *viva voce* evidence of three witnesses namely Simbarashe Soko, Simbarashe Makumbe and Matangirofa Marunge. We summarise and analyse their evidence below.

Simbarashe Soko (Soko)

The witness is a Corporal in the Zimbabwe National Army. He is a supervisor of the two accused. His testimony was that he followed them to Chigayo Inn after he failed to locate them at their duty station at No. 1 Presidential Battalion where they had been deployed. He found them inside the bar drinking. He made sure he left the bar with them sometime after midnight. On the way back to their duty station he walked ahead of Simba Makumbe with the two accused. When someone called out that Simba was being assaulted the two accused rushed back to where Simba was. He waited for them. He could not see what was going on as he was about fifteen (15m) metres away. After a few minutes he decided to follow them. He caught up with them in time to witness the first accused assaulting the deceased viciously and randomly all over the body with a switch whilst the other was plucking a switch from a nearby tree. He

said they both took turns to assault the deceased who was lying on his stomach. As he drew closer the witness observed that the deceased's trousers were lowered, and the buttocks exposed. Each accused used a switch to assault the deceased. The witness was clear that the blows on the deceased by the accused were intense and aimed at deceased's back and shoulders down to his feet. He likened the size of the switches that they used in the assaults to broomstick handles. According to the witness he continued to draw closer to the accused and restrained them by pulling them away from the deceased but not before he had noticed some injuries on deceased's buttocks. Soon thereafter he observed the deceased try to walk away from the scene but it was clear to him that he was in pain from the assaults. As he staggered, his whole body was hunched over. He was certain that deceased did not go far because of the injuries sustained from the intense assault. One inconsistency was noted in his testimony. In his evidence in chief, he stated that that the two men plucked a lot of switches which they quickly replaced when these broke and yet in cross examination he then watered this down by saying he only saw two switches that each man used on the deceased. Such an inconsistency is negligible as it remains a fact that each accused used a switch during their turns in assaulting the deceased. The inconsistency does not go to the root of his testimony as the accused themselves even admitted assaulting deceased with "sticks" in their defence outlines.

That notwithstanding the witness was clear that he had no reason to lie against the two. He also conceded that he felt compelled to report the assault to his superiors upon arrival at his workplace primarily because he was certain that a police report would be made by deceased against the accused, due to the severity of the assault and injuries, he had witnessed.

The witness's evidence was clear, dispassionate and credible. It supports the findings which were made by the pathologist and detailed in the post-mortem report. If anything, this witness was expected to support his workmates and water down their participation in the death of the deceased. He chose the interests of justice.

Simbarashe Makumbe (Simba)

This witness's testimony corroborated Soko's testimony in all material respects. The accused in their defence outlines were intent on making the court believe that Simba had been assaulted by the deceased and that their role in the assault was simply to defend him. To show the untruthfulness of their defences, Simba the supposed victim of deceased's aggression, refuted that story. He told the court that he was never at any point assaulted by the deceased nor anyone else for that matter. He said that when some unknown person called out that he was being assaulted the deceased and his crew all dispersed in different directions. The deceased

was unfortunate in that he ran straight into the hands of the accused who were on their way to rescue him. The two accused pushed the deceased into a water way and started assaulting him indiscriminately as he lay on the ground. Like Soko before him, he also likened the thickness of the switches to broomstick handles.

The witness refused to comment on the gravity of the assault upon the deceased by the accused. He preferred instead to tell the court that he was not able to determine the force used. He however inadvertently alluded to the extreme intensity of the assault when he told the court that whilst he couldn't see clearly in the darkness, he heard the loud sounds of the switches landing on the victim. In addition to this he also commented on the duration and intensity when he said that Soko restrained the two accused from further assaulting deceased because they had assaulted him for a long time. To quote him, "*a minute is a long time for an assault*"

One can understand the predicament that this witness found himself in. He testified against his two supposed good Samaritans. He was clearly caught between a rock and a hard place. His demeanour on the witness stand visibly communicated his discomfort. He shifted restlessly as he testified. He had all the reason to lie to the court and save the two who had gotten into problems because of their uninformed desire to protect him. Despite these flaws, he was candid with the court in admitting that he did not restrain the two because they were protecting him although he was not in any kind of danger. He was clear that he wasn't under neither under attack nor was any imminent. He had not even called out for help nor told the two accused that he was in danger. In retrospect he regretted not having refrained the two men from attacking the deceased. He also conceded that when Soko went up close to refrain the two accused he may have seen other things he hadn't seen. He was standing about two- metres away from where the assault was taking place. Significantly, he also said that the two accused knew that they were not supposed to exceed moderation in assaulting the deceased. Despite further probing he however did not elaborate the issue.

Simba's testimony corroborated that of Soko in relation to how the assault took place. It also confirmed the size of the weapons used against the deceased. This court therefore found as a fact that the switches were the size of broom handles. Simba's evidence also put paid to the accused's insinuation that the deceased sustained injuries from the earlier altercation with Simba. Through the evidence of this witness the court was left in no doubt that no one assaulted the deceased prior to the violent and unprovoked attacks by the two accused.

Matangirofa Marunge (Marunge)

The witness is a relative of deceased. He told the court how on the fateful morning around 0500 hours he had found his wife's nephew lying sprawled on the road at the corner of Enterprise and Poland Valley roads. He was unequivocal that the deceased was in bad shape. The deceased could not speak and was weak. He literally carried him from the scene and subsequently ferried him to the clinic. When he lifted him, he observed injuries on the buttocks and on his eye. He also observed that deceased had urinated on himself. At the scene he observed that the grass around where the deceased was lying had been trampled and that some of it had been flattened. According to the witness because of these observations, it was clear to him that that was the area where the assault had been perpetrated. He further observed broken pieces of switches which he later uplifted in the vain hope that they might be of assistance to the police who would be seized with investigations of the assault of his relative.

Marunge's evidence was crucial. It illustrated that the deceased was found in a state of near death at the scene of the crime. Contrary to the accused's assertion that the deceased may have been injured when he staggered away from the scene, Marunge's testimony showed that accused did not go further than the point where the accused assaulted him. The clear evidence is that he may have staggered a few paces after the assault, collapsed and lay there until when he was discovered by some people who knew him. He could not as a result have sustained any injuries anywhere else other than at the scene and at the accused persons' hands.

Through the evidence of Marunge, the state rebutted the accused's contention that deceased might have fallen as he fled the scene. It was a finding of this court therefore that accused did not flee as he was found at the place where he was assaulted. The suggestions of injuries being sustained elsewhere were clearly disproved by this witness's testimony.

Accused Persons

The accused persons' testimonies were largely like what they had already given in their defence outlines. The additions were the following:

1. Both said they assaulted the deceased because they wanted to discipline him because they saw him assault their colleague, Simba.
2. They intended to give him only three blows as a warning that he should never be violent again.
3. Soko restrained them from further assaulting the deceased merely by asking the deceased if he was not able to flee. Deceased had then stood up and ran away.

4. They made specific mention that the deceased fled the scene without any difficulties and said that he was in “perfect” condition when he left the scene.
5. Lastly, they said on the night in question they were drunk, and that the intoxication could have contributed to their unruly behaviour. In any case they alleged that they had not assaulted deceased with any intensity because they only used a switch which was the size of an index finger. The assault was on the buttocks only.

An analysis into the accused’s evidence revealed the following:

Both accused struggled to maintain the narrative which they gave in their defence outlines. During cross examination they both suffered the ignominy of being exposed as prevaricators. They insisted in their evidence in chief that they saw Simba being assaulted by the deceased. They completely forgot that in their confirmed warned and cautioned statements admitted without contest by the defence, they told the police that they found Simba “standing” with some other man. Their attempt to reconcile the two contradicting statements was disastrous. From stating emphatically that they saw deceased assaulting Simba they tried to water this down when probed in cross examination by saying deceased held Simba by the collar. The 1st accused was the most vocal in his testimony, and with that came new dimensions to his evidence. When the 2nd accused took to the witness stand, he simply parroted what had been said by the 1st accused. It however amounted to nothing but an exaggeration which was tailored to suit their new version of events.

By suggesting that the injuries which caused the deceased’s death could have been sustained elsewhere the two accused departed materially from their own defence outlines. For instance, they told the court that after the assault accused got up and fled the scene. Both men said he was in” perfect” condition when he fled the scene. That however was not what they said in their defence outlines. In the outlines, they advised the court that the deceased staggered as he fled the scene. In their own version therefore, the accused was not well when he allegedly fled the scene. Certainly, anyone staggering after an assault would not be in perfect condition. The fact that the two admitted to seeing deceased staggering from the scene lends credence to Soko’s assertion that the accused was hunched over as he tried to make his way from the scene. Yet again that variance between their testimonies and their defence outlines exposed them as being untruthful.

The court has already noted that the witnesses continued to introduce new dimensions to their evidence. They blamed their actions on alcohol by alleging that they were drunk to the

extent that their judgement was impaired. Their defence outlines were however silent on that aspect. It was an issue which was only introduced at the eleventh hour. The court concluded that this was nothing but an afterthought by desperate men desirous of finding a way to wriggle out of the problem they found themselves in. Both had earlier on stated in their evidence in chief that they were moderately drunk and knew what they were doing. It eluded the court how suddenly and during cross examination they became so inebriated that they could blame their actions on drunkenness. It adds to the number of untruths manufactured by the accused.

As already indicated, the accused, in their defence outlines admitted having caused injuries on deceased's buttocks, back and legs. In their evidence in chief, they summersaulted and denied having caused such injuries. They argued that they only aimed at the buttocks and that such injuries on the buttocks could not have caused death. That version was another material departure from their own defence outlines. Juxtaposed against the post-mortem report which was tendered without contestation the falsity of their claim becomes even clearer. The post-mortem report details the injuries that were observed by the pathologist Dr. Yehilyn Iglisias in Exhibit 1. They were multiple and spread all over the deceased's body. Notably, they were on the right arm, right eye, left hip, elbow, right buttock, chest, left buttock and right knee. In his final analysis the pathologist concluded that, the cause of death was a result of:

- a) *Severe pulmonary oedema*
- b) *Big haematoms on the right buttock and left pulmonary contusion*
- c) *Multiple injuries*

While the accused tried to confine themselves to having "carefully" assaulted the deceased on the buttocks there was no escaping the fact that even the injuries on the buttocks contributed to deceased's death. There seemed to be no reprieve for the accused. The injuries that were observed by the pathologist on the body of the deceased were on the same places that Soko saw the accused assault the deceased on. They even conceded to that in their defence outlines. The state's evidence clearly illustrated the causal link between the accused's actions and the demise of deceased.

The accused tried to paint Soko as an untrustworthy witness, but the attempt was unsuccessful. They said Soko simply asked the deceased if he couldn't flee and according to them that was the only way through which he restrained them. They forgot that previously and in their warned and cautioned statements they had said Soko had restrained them by asking them to leave deceased as well as by warning them against assaulting him. The discrepancy

was another indication of the inconsistency in their testimonies. The court accepted that Soko had indeed restrained the accused not only verbally but by pushing them away from the deceased and asking them to stop assaulting him.

The accused told the court that the two state witnesses, Simba and Soko were shameless liars. They alleged that Simba lied that he was not assaulted. However, they had no explanation why Simba would lie against them given that he was their colleague. They could only mumble that it was because he was fearful without giving reasons why he would be fearful. When probed as to what he was fearful of they conceded that this was only an assumption. This explanation was without substance. In any case Simba had not shown any visible signs of fear when he testified. It was therefore an assumption with no basis.

The accused's admission that they had not sought to ascertain from Simba what had happened to him goes to show that they were bent on flexing their muscles and bullying the civilian deceased. They had no reason to be overbearing or to "discipline" the deceased as they said. He had done nothing wrong. These contradictions and untruths only point to the fact that the accused did not act in the protection of their colleague Simba but to quench their sadism. Simba was never in danger from the deceased. The deceased was running away when they caught up with him. They were consumed by a desire to exert their authority on an unarmed man. Their plea that they were acting in defence of a third party was therefore hopelessly misplaced.

In addition to these attempts to escape liability for the assault, the accused also downplayed the size of the weapons used. Whilst the state witnesses stated that the switches were the size of a broomstick, and that the assaults were intense the accused wanted the court to believe that the switches were the size of the human index finger and that the strokes on the deceased were slow, executed with moderate force and aimed at the buttocks only. Their assertion however brought more questions than answers. They both admitted they were angry because the deceased was harassing their colleague. In their own words they wanted to "discipline" him. They were fired up and even pushed the deceased into a waterway and instructed him to lie down in anticipation of the assault. With that in mind, to accept the accused's version of events that they beat the deceased slowly, moderately and carefully aiming at the buttocks is impossible. It is simply unrealistic. The more credible version is that which was told by the two state witnesses. It is that in anger, the accused persons beat the deceased thoroughly and indiscriminately. The 2nd accused even admitted to the court that were it not for Soko restraining them they would have continued assaulting deceased and would have only stopped

after they were satisfied. Likewise, the 1st accused also insisted that given a chance he would still have assaulted deceased as opposed to taking him to the police. Both men exhibited no remorse at all.

Significantly both accused confirmed that they are trained military men bound by the laws and protocols which govern the country's uniformed forces. The court has no doubt that being trained military people the accused know what can kill a human being. They ought to have foreseen the folly of their ways. They must have foreseen the repercussions that would flow from viciously attacking the deceased which included that he could be badly injured or die. They nonetheless continued with their actions.

In the final analysis we find the accused persons' defence preposterous. We reject it as false as it was informed by a desire to exonerate themselves and not by the facts on the ground. It was anchored on falsehoods. The two eyewitnesses Simba and Soko had no reason to implicate either of the accused. The witnesses gave plausible accounts of what happened on 15 October 2018. We embrace that version as truthful and therefore place more reliance on the witnesses' account than that of the accused.

We harbour no doubt that the state managed to prove beyond reasonable doubt that both accused assaulted the deceased realising that there was a real risk or possibility that their conduct may cause his death. They nevertheless continued with the assaults until they were restrained. That intervention was unfortunately too late because deceased had already suffered mortal injuries from which he died some few hours later.

Accordingly, the court finds both accused guilty of contravening section 47 of the Criminal Law (Codification and Reform) Act [Cap 9.23].

Sentence

In passing sentence, the court remains alive to the requirement that punishment must be considered within the triad of the offender, the offence and societal interests.

There is no doubt that in recent times, the considerations of rehabilitating the offender and compensating the victims of crime have taken centre stage. The nature of the crime of murder however detracts from these noble principles. It is inevitable that the court looks at retribution as the most dominant theory in punishing persons convicted of murder. Other theories such as

deterrence would also come into play although the impact appears insignificant given that incidences of murder remain disturbingly prevalent even in jurisdictions such as ours where the possibility of being sentenced to death after being convicted of murder remains high. See *S v Kinnaird & Anor* HB 486/2015 for those propositions.

In trying to achieve this balance, the court considered all the mitigatory and aggravatory factors as submitted by counsels.

In mitigation the court considered that both accused are first offenders who are family men with the usual attendant family responsibilities. Accused 1 has a wife and 5 minor children while accused 2 fathered 3 children whom he is looking after as a single parent because his wife left him to fend for the children alone when she relocated to South Africa. Each of the accused is the sole bread winner in their respective families.

In aggravation counsel for the prosecution urged the court to make finding that the accused committed the murder in aggravating circumstances. In particular he urged the court to find that the murder was preceded and accompanied by physical torture. The court was referred to section 47(2) (c) of the Criminal law Codification and Reform Act (Code) which provided that in arriving at an appropriate sentence for murder, it shall be taken as an aggravating circumstance if:

“ the murder was preceded or accompanied by physical torture or mutilation inflicted by the accused on the victim”.

In the Zimbabwean criminal justice system torture is not a stand – alone crime. By its nature torture is intricately woven into most violent crimes such as assault and murder which have been codified. Most international human right instruments however define torture and may give guidance as to what constitutes it. For instance, Article 1 of the UN Declaration Against Torture which Zimbabwe ratified, defines torture as:

“ for the purpose of this declaration, torture means any act which severe pain or suffering ,whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons.”

Clearly therefore, for an allegation of torture to be sustained, there is a requirement that the pain and suffering must be perpetrated by a public official. There must be evidence of intense pain and suffering from the prohibited act. Lastly the purpose of the torture must be to obtain information, confession or mere punishment of the victim.

In casu, it is not disputed that the accused are public officials, in particular members of the Zimbabwe National Army who severely assaulted the deceased. They cannot however be

brought within the meaning of public official used in the UN declaration Against Torture because when they committed the offence they were acting in their private capacities. As shown from evidence during trial, they were on a frolic of their own whilst off duty and coming from a beer drinking spree. As such they were not acting as public officials. Without satisfying that requirement the provisions of S 47 (2) © cannot come into play. The offence was therefore not committed in aggravating circumstances as envisaged in that section.

Be that as it maybe the court will not lose sight that the accused persons are both trained soldiers. Their primary duty is to protect citizens of this country. To forget that role and become the abusers and murderers of the public they are employed to protect is ironic. Their moral blameworthiness thus becomes very high.

From the circumstance under which the offence was committed, there is little doubt if any that the deceased died a painful death at hands of the accused. The autopsy indicated that his buttocks were swollen from the severe beatings sustained from the assault. He even soiled himself whilst lying in a near comatose state by the roadside. That suggests he became helpless before he died.

To compound issues, there was no reason why the accused assaulted the deceased in the manner that they did. Being soldiers, if indeed they believed that deceased had assaulted one of their own the law required them to have arrest the deceased and handed him over to the police who the court was informed during trial were just a stone's throw away from the place where the deceased met his death.

Throughout the trial both accused showed no remorse for their actions. Their demeanor suggested a good measure of impunity on their part. As intimated earlier in offences such as murder, the court has very little room to consider the plight of the victim and the collateral suffering caused to the victim's family. It would have assisted the accused in mitigation had they reached out and apologized to the deceased's family. They clearly did not think it worthwhile. As such the sentence which the court will pass must strive to pacify the victim's family that justice finally caught up with the perpetrators. The court has no doubt that a lengthy custodial sentence is called for in the instance.

Accordingly each accused is sentenced to **20 years imprisonment**