

THE STATE
versus
HARDLIFE NHOKWARA

HIGH COURT OF ZIMBABWE
MATHONSI J
GWERU 21 MAY 2018

Criminal Trial

T Mupariwa for the state
Ms B Makaripe for the accused

MATHONSI J: The accused was 21 years old at the time of the commission of the offence and resided at Hove village in Zvishavane. He is facing a charge of murder as defined in section 47 of the Penal Code [Chapter 9:23]. It is alleged that on 22 May 2016 at around 1100 hours, he fatally assaulted his biological mother Juliet Nhokwara at her homestead. The accused person is pleading insanity which the state has accepted.

According to the statement of agreed facts placed before us the deceased had been collecting firewood next to her homestead when the accused suddenly picked up a pestle, walked up to her and struck her several times on the head before taking to his heels leaving his mother bleeding profusely and screaming for help. She later died from the injuries she sustained.

According to Dr J Betancourt, a pathologist based at United Bulawayo Hospitals, who examined the deceased's body, the cause of death was severe cerebral oedema, universal subarchnoid haemorrhage and skull fracture due to beating. We have also had sight of the report compiled by Dr Elena Poskotchinova, a psychiatrist at Ingutsheni Hospital in Bulawayo, who examined the accused between 3 October 2016 and 15 February 2017. She concluded that;

“In my opinion there is a reasonable possibility that at the time of the alleged crime the accused was suffering from mental disorder (schizophrenia, substance use disorder). He was mentally disturbed to such an extent that he should not be held legally responsible for his action.”

Counsel have urged of us the return of a special verdict in view of those findings. We are indeed satisfied that this is a matter falling under section 29 (2) of the Mental Health Act [Chapter 15:12] which requires the court, where is its satisfied from the evidence presented at the trial, that indeed the accused person perpetrated the act constituting the offence charged but that when he did he was mentally disordered so as not to be held responsible for his actions, to return a special verdict. We are so satisfied.

In the result, it is ordered that:

- 1) The accused is hereby found not guilty by reason of insanity.
- 2) The accused shall be returned to prison for transfer to a special mental institution for treatment.

National Prosecuting Authority, state's legal practitioners
Legal Aid Directorate, accused's legal practitioners