

IN THE COURT OF APPEAL OF THE REPUBLIC OF BOTSWANA

Criminal Appeal No. 3 of 1981

In the matter between:

RASHID MOHAMED

Appellant

vs

THE STATE

Respondent

Appellant in Person

G. R. Gareebine for the Respondent

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JUDGMENT

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Coram:

Maisels, P

Dendy-Young, J.A.

Aguda, J.A.

AGUDA, J.A.

The appellant together with other two persons were charged with robbery before the Magistrate in Lobatse. The three of them pleaded guilty after the charge had been explained to them. The 1st accused was sentenced to 9 years' imprisonment. The present appellant who was 2nd accused and the third appellant were each sentenced to 8 years. From that sentence the appellant appealed to the High Court; and his appeal having been dismissed sought leave to appeal to this Court.

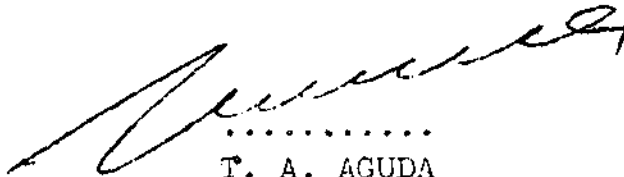
The facts were that the appellant and 1st accused conceived the idea of robbing the bank of money in transit from Lobatse to another village.

They got in touch with the third accused who was the driver of the Bank's vehicle which was to convey the money. He gave them a tip off as to when the van would leave Lobatse on the day of the incident.

As soon as the van reached the agreed spot the third accused stopped the vehicle as previously agreed pretending that something was wrong with it. Then 1st accused and the appellant jumped upon the occupants of the vehicle and assaulted them and made away with boxes containing money. The amount involved was over P16 000. Fortunately practically all the money was recovered, the only amount not recovered was P2.40. Those were the facts upon which they pleaded guilty and were convicted. As I have said earlier, the appellant appealed to the High Court against sentence. The appeal was dismissed. In further appeal to this court he merely repeated what he had said to the High Court in mitigation of sentence, namely, that he is a family man. It is not the duty of this court to intervene in the discretion of the trial Judge in the sentence he has passed unless the sentence was so outrageous as to induce a sense of shock or if the trial judge went on wrong principles or misdirected himself on relevant facts.

3.

No such has been established in this case. The learned Chief Justice<sup>in</sup> dismissing his appeal took everything favourable to the appellant into consideration. We therefore see no reason why that judgment should be disturbed. Therefore the appeal is dismissed.



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T. A. AGUDA  
Judge of Appeal

I agree:

*I. A. Maisels*  
.....  
I. A. MAISELS  
President of Court of Appeal

I agree:

*J. R. Dendy-Young*  
.....  
J. R. Dendy-Young  
Judge of Appeal

LOBATSE

15th June, 1981