

IN THE COURT OF APPEAL OF BOTSWANA

Court of Appeal GA 18 of 1984

In the matter of:

CHURCHILL TIKINI LETSHOLO

Appellant

vs.

THE STATE

Appellant in person  
Mr. S. A. Afful for the State

CORAM: I. A. MAISELS JP.  
L. S. BARON JA.  
N. MURRAY JA.

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J U D G M E N T

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MAISELS, JP.

The appellant was convicted in the High Court of murdering his lover one Kalatane Ontumetse. The court found that there were extenuating circumstances and did not impose the death sentence upon him. He was sentenced to undergo 10 years imprisonment from the time when he was in custody, namely 21st September 1983. It is clear that on the evening of 15th September 1983 the appellant followed Kalatane to the home of her new boyfriend and waited until she was in the bedroom. The appellant was armed with a knife. He dived through the window and stabbed her a number of times causing fatal wounds. These wounds were described fully in the medical evidence I do not propose to set them out in detail save to say that as was found by the learned judge in the court below it was a most brutal murder. In fact it is almost

impossible to conceive of a murder being carried out in a more merciless manner on a defenceless young woman.

To my mind as found by the learned trial judge, this case merits a very substantial sentence of imprisonment. It may well be said that the appellant is lucky not to have been sentenced to death.

The appellant has listed a number of grounds upon which he says his sentence is excessive. He says he is a young man, that he has a good record, that he has a number of dependants who would be unable to support themselves. If he has a long term of imprisonment, that he has to repay a substantial loan to the National Development Bank, that he is sole trader of his shop, that he suffers from an ulcer and has told the court today that he is remorseful of his deeds, that he offers good service to the nation, indeed he considers himself an asset to the State. What he does not consider is that he murdered this young woman and that he showed her no leniency and no mercy. It is well to restate what was said by Schreiner J.A. in a case of R. v Kari 1961 (1) SALR 251 AD at p. 256 and quoted in the judgment in the court below.

"..... if sentence for serious crimes are too lenient, the administration of justice may fall into disrepute and injured persons may incline to take the law into their own hands."

However as was pointed out by Mr. Justice Schreiner in that case righteous anger should not be allowed to becloud judgment. I hope the anger which I felt on reading what happened to this young woman is not clouding my judgment. I merely wish to say that despite all what was raised by the appellant, there seem to me to be no grounds at all

for saying that the sentence imposed by the trial court was of such a nature as to require this court's interference. To the contrary if anything the sentence may have erred on the side of leniency. In my opinion there is no merit in this appeal and it is dismissed.

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I. A. MAISELS, JP.

I agree

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L. S. BARON, JA.

I agree

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N. MURRAY, JA.