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IN SOUTH GAUTENG HIGH COURT

JOHANNESBURG

CASE NO: SS293/00

DATE: 06/03/2002

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED.

11 SEPTEMBER 2013

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In the matter between

THE STATE

and

PATRIC MAIPONE MALATSI

1st ACCUSED

JOSEPH TIP NAMANE

2nd ACCUSED

EDUARD MATOME PILUSA

3rd ACCUSED

**J U D G M E N T
(S E N T E N C E)**

VAN OOSTEN J: The accused have been convicted of very serious crimes. The deceased was attacked with an arsenal of weapons. The deceased had ample reason to be concerned about the welfare of his niece. He approached the accused and asked them where she was. Accused 1 displayed adopted an aggressive attitude: he invited them to a fight. The attack on the deceased was

a violent and vicious one. He was brutally murdered. The deceased was only 23 years old, he was the father of a young child 4 years old, and many of his brothers and sisters were dependent on his support. He had the right to live and to enjoy life, but this was cut short by the accused. The accused acted with a callous disregard not only to the rights of the deceased but also to the rights of the complainants. Mr Khumalo was not only seriously injured but degraded in the extreme when he was dumped into a toilet pit where he was stuck until the next morning. Mr Nkosi was hit on the head and stabbed in the back. And as if this was not enough, he was in addition stabbed with a garden fork on the
10 right hip. Fortunately, the assault on Mr Hlatwayo was of a less serious nature.

I take into account the personal circumstances of the accused. Accused 1 is 26 years old. He passed Std 9 at school. He is married, and one child was born from the marriage. This is not his first brush with the law. As far back as 1992 he was found guilty of housebreaking with intent to steal and theft, when the sentence was postponed for 3 years. He crossed the path of the law again in 1996 for a less serious offence, but was convicted on 8 May 2000 in respect of two charges of rape of Ms M and Ms D. He was sentenced to 15 years on each count.

20 Accused 2 is 25 years old. He is not married but the father of a child, a girl aged 4 years. He passed Std 7 at school. Accused 2 has also admitted previous convictions. On 5 June 1997 he was convicted of assault with intent to do grievous bodily harm, in respect of which a wholly suspended sentence was imposed. He was, together with accused 1, convicted on 8 May 2000 on the two rape counts, and also sentenced to 15 years' imprisonment on each count.

Accused 3 is 25 years old, and he has passed Std 9. He is not married and has no dependents. He was the owner of a tuck shop, and he testified that he was a community leader. I noticed when accused 3 entered the witness-stand that he a Bible in his hand. He testified that when he introduced accused 1 to the deceased he also had a Bible in his hand. Counsel informs me that accused 3 is studying the Word of God. I would like to direct one word of caution to accused 3 regarding the Bible. In the Word of God, in the book of James, which is in the New Testament, the writer says we must all be *doers* of the Word. One's lifestyle should be a living example to others. Accused 3's
10 conduct, as revealed by the evidence in this case, shows exactly the opposite.

The community with ample justification expects the courts to impose heavy sentences where offences of the kind we are here concerned with are committed. In my view there is little to be said in favour of the accused. Their personal circumstances pale into insignificance against the background of the seriousness of the offences of which they have been convicted.

In my view counsel for the defence correctly conceded that there are no substantial or compelling circumstances justifying a lesser sentence on count 1 and that the minimum sentence prescribed by the legislature applies.

In my view the time has arrived for the accused to be permanently
20 removed from society.

In the result the following sentences are imposed in respect of each of the three accused:

On count 1: Life imprisonment.

On count 2: 10 years' imprisonment.

On count 3: 10 years' imprisonment.

On count 4: 2 years' imprisonment.