

THE STATE
versus
PILOT MADZIVIRIDZO

HIGH COURT OF ZIMBABWE
MAKONESE J
GWERU 26 JANUARY 2016

Criminal Trial

T. Mpariwa for the state
Ms T. Panacheche for the accused

MAKONESE J: On 4 March 2011 the accused who was 27 years old at the time had a misunderstanding with his father one Solomon Madziviridzo as well as his brother Coster Madziviridzo. During the altercation accused armed himself with an air gun barrel with which he threatened to assault the pair. The two men fled from the homestead and sought refuge in the bush.

The accused then proceeded to Amos Zishuro's homestead where he smashed windowpanes using the air gun barrel. Amos Zishuro confronted the accused in a bid to refrain him but he was overpowered by accused who pummelled him on the head with the air gun barrel. Amos Zishuro fell to the ground and died moments later. Accused was later arrested by the police.

The accused has now been arraigned in this court on a charge of murder on these allegations. He admits committing the offence but contends that at the time he committed the offence he was suffering from mental illness.

The court entered a plea of not guilty. Accused's defence counsel confirmed that her instructions were that accused was mentally ill at the time of the offence.

The state has tendered into the record of proceedings a Statement of Agreed Facts (Exhibit 1) summarizing the events surrounding the commission of the offence.

The state also tendered a Post mortem Report (Exhibit 2) compiled by Dr C Banya, at Gokwe North District Hospital under number 220461. The Post Mortem Report lists the cause of death as:

- (a) Trauma to left temporal region and parietal areas of the brain.

The report also reveals that there were three lacerations approximately 3cm on the left temporal area and an 8cm deep laceration on parietal area of the left side. There was a depressed skull fracture on temporal area.

Exhibit 3 the murder weapon is a 1.732kg air gun barrel with a measured length of 74cm.

The last Exhibit 4 is the psychiatrist report of Dr Elena Poskotchinova. The report details that the accused has a history of mental illness. He was examined by the psychiatrist at Mlondolozhi Special Hospital on different dates for the period extending from 10 November 2014 to 13 May 2015. The report further indicates that accused's mental illness began in 2008. He was taken to Parirenyatwa Hospital and Musapidzi clinic in Gokwe for treatment. He was described by his brother as very violent when mentally ill. He suffered from delusions of grandiose. He claimed to be President of Zimbabwe because he received special systems from God.

In the opinion of the psychiatrist the accused was possibly mentally disturbed to such an extent that he was not criminally liable for his actions.

We are satisfied that on the evidence presented before us accused was suffering from mental disorder at the material time.

In the circumstances the appropriate order is as follows:

- (1) Accused is found not guilty by reason of insanity.
- (2) In terms of section 29 (2) of the Mental Health Act [Chapter 15:12] accused is to be returned to prison for transfer to a Mental Institution for further treatment and care.

National Prosecuting Authority, state's legal practitioners
Gundu and Dube, accused's legal practitioners