

THE STATE
versus
DANANAI ZIDENGA

HIGH COURT OF ZIMBABWE
BHUNU J

HARARE, 7 February 2012, 29 February 2012, 28 March 2012, 1 March 20 12 and 30
OCTOBER 2014.

Assessors: 1. Mr Shenje.
2. Mr Mutambira

SENTENCE

D.H Chesa, for the state
K. Kachambwa, for the defence

BHUNU J: The accused is a young man of 32 years of age he was however, 27 years of age when he committed the offence charged. He was initially charged with the murder of his girlfriend one Netsai Mugwira on 19 June 2009 but was convicted on his own plea of guilty to the lesser charge of culpable homicide.

In assessing sentence the court takes into account that the accused is a young man in the prime of his life gainfully employed as a cross border trader. He has a 10 year old daughter to look after. He pleaded guilty and has shown contrition. After injuring the deceased he did not abandon her but gave her money for medical treatment. He was ready and willing to pay compensation to the deceased's relatives according to custom. His bid to pay compensation however hit a snag when her relatives refused to negotiate the terms of settlement.

The court also takes into account that the offence was committed in circumstances of extreme provocation when he found the deceased in a compromising position having sexual

intercourse with another man. The deceased appears to have been a woman of easy virtue with multiple sexual partners according to the evidence of her close friend Tecla Goma. She testified that she had once warned the deceased against having multiple partners. The two appear to have been in a stable and happy relationship that was soured by the deceased's sexual escapades with other men.

In assessing the appropriate sentence the court will also take into account that the accused has spent about 3 years in prison pending trial as stated in the case of *S v Atikin* 1995 (2) ZLR 395 (S) at 398. See also *S v Mutakwa* 200(1) ZLR 393 at 396 (C – D).

Having said that, the court will not lose sight of the sanctity of sacred human blood. Whenever precious human blood is unlawfully shed as happened in this case, the courts will invariably show their revulsion by passing stiff and deterrent sentences. The deceased despite her transgressions was still a human being with the right to life.

The accused is not new to these courts, he committed further violent offences while on bail awaiting trial in this case. Twice he committed the offence of assault and had a suspended sentence of 3 months imprisonment brought into effect. The accused is therefore a man of an incorrigible violent disposition who stands in need of a stiff and deterrent sentence. There is no point in suspending any portion of the sentence I am about to pass because the accused has demonstrated that he has no respect for suspended sentences.

The accused is accordingly sentenced to 5 years imprisonment.

The Prosecutor General's Office, state's legal practitioners.
Dube, Manikai & Hwacha, defence's legal practitioners