



CASE NO. CC 02/2010

IN THE HIGH COURT OF NAMIBIA

In the matter between:

THE STATE

and

CYPRIAN SIBONGILE MUTANGA

CORAM: SIMPSON, AJ.

Heard on: 23 August 2011

Delivered on: 24 August 2011

SENTENCE

SIMPSON, AJ.: [1] Cyprian Sibongile Mutanga had been convicted of one count of murder and one count of assault with intent to do grievous bodily harm. Following the conviction, evidence was led both in mitigation and in aggravation. In other words both counsel placed factors before court which should be considered in imposing an appropriate sentence.

[2] For the court to impose a suitable sentence, a balance of the circumstances of the offender, the crimes committed and the interest of society, blended with measure of mercy, should be achieved by this court.

[3] Looking at your personal circumstances, it is stated that you were 20 years old at the time of the incident; you are a first offender; you are a father of one (1) child aged five (5) who is living with the mother who is unemployed. Meaning the child is now taken care of by the grandmother. It is also placed before court that Mr Mutanga is not married, and that he was employed prior to his arrest. Mr Mutanga had been incarcerated for over three (3) years prior to the finalization of this matter.

[4] Looking at the crimes committed, these are not only serious offences, but also prevalent nationwide. This offence of murder is serious in the sense that a life is taken. In *casu* the deceased was brutally attacked, whereby serious injuries were inflicted on the deceased. The deceased was dragged, jumped on, stabbed and in her weakness left to die. In the commission of this offence, the onlookers were in fear to assist the deceased, as Mr Mutanga was unstoppable. In fact prior to this brutal murder, you were looking for the deceased, and in the process of finding her in the shack, you stabbed Michael Gorbatjof with an object.

[5] Looking at the interest of society, the court also has a duty to protect the public against those who commit crimes such as you have committed. During your evidence at the mitigation stage, you showed no remorse, by stating that the killer is still out there, whilst you had been convicted beyond reasonable doubt. It is also so

that the mother of the deceased, as she testified, suffered an illness of high blood pressure followed by a stroke, as a result of the loss of her daughter.

[6] It was also observed by court that this witness, Erna De Klerk was very emotional, when she testified during the trial, as well as during her evidence at the sentencing stage. I however, considered all these factors placed before me to come to an appropriate conclusion.

[7] It was stated by the defence that the court must be merciful, taking into consideration that you are still young. However, the court is of the opinion that if it is lenient, this will open the doors for would be youthful offenders. The only way to curb this type of offences is to impose stiff sentences.

[8] On count one, that of murder with direct intent, you are sentenced to 35 years imprisonment. On the count of assault with intent to do grievous bodily harm, you are sentenced to 2 years imprisonment.

[9] It is however ordered that the sentence imposed on the count of assault with intent to do grievous bodily harm is to run concurrently with the sentence imposed on the count of murder.

SIMPSON, AJ