



**HIGH COURT OF NAMIBIA MAIN DIVISION, WINDHOEK  
SENTENCE**

**CASE NO: CC 4/2014**

In the matter between:

**THE STATE**

**versus**

**TROUGOTH NANUB**

**ACCUSED**

**Neutral citation:** *State v Nanub* (CC 4/2014) [2017] NAHCMD 22 (01 February 2017)

**CORAM:** SIBOLEKA J

**Heard on:** 20 January 2017

**Delivered: on:** 01 February 2017

**Flynote:** Criminal law: Murder – *dolus directus* - domestic setting – a lengthy custodial sentence inevitable.

**Summary:** The accused has a modus operandi of viciously attacking his ex-girlfriends after terminating their relationship with him. He would go out in the darkness, stalk them and then launch an attack on them to avoid detection.

Held: The accused's conduct – very dangerous to defenseless women.

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### **ORDER**

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In the result the accused is sentenced as follows:

Murder – *dolus directus*, read with Act 4 of 2003: Thirty eight (38) years' imprisonment.

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### **SENTENCE**

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SIBOLEKA J:

[1] On 12 January 2017 I convicted the accused on murder – *dolus directus* read with Act 4 of 2003. It is now my duty to consider an appropriate punishment for him. In doing this, I have to take the accused's personal circumstances, the crime itself, and the interests of society into consideration. Closely associated with the above are the objectives of punishment such as prevention, retribution, deterrence, and rehabilitation.

[1.1] The consideration of punishment requires that all factors be balanced to prevent one of them being over emphasized more than others. However, it could still in the end be that the same has not been fully achieved, because each case has its own merits.

[2] I will start with the accused's personal circumstances.

[2.1] The accused is currently 32 years old. He was 27 years of age at the time of the incident. His mother is still alive, she resides at Uis. He has three brothers and five sisters. He is the first born from her mother's side, and the third from his father's side. Before his arrest on this matter in 2009, he worked for a Roads Construction Company. In 2012 he worked as a foreman at the farm of Christian Nanub where he received N\$1 000 per month. He sent N\$4 00 to his children. He also received monthly food rations and toiletries. He went up to Grade 8 at Gariseb Primary School at Farm Sores in Khorixas. He is single but has two children, a boy of six years and a girl aged five years respectively.

[2.2] The mother of the accused's daughter has since passed away. During the subsistence of his relationship with the deceased they stayed with his other two children from other women. He did not get children from the deceased. After his arrest on the matter, he was held at Omaruru. He gave N\$5 000 in addition to N\$24 000 that was raised by his family members. The money was handed to the relatives of the deceased's family to help with funeral costs. He however did not find out exactly to whose funeral the above cash was given out for. This, in my considered view throws a lot of doubt whether the amount was indeed given, because nobody in his rightful senses can contribute to the funeral arrangements of a person he does not even know.

[3] The crime: The accused's actual or perceived intimate or romantic relationship with the deceased had ended before the incident took place. On that fateful day in the evening, the deceased and her new lover walked to the shop to buy some candles. On their way back in the riverbed the accused called the deceased to go to him which she did. Lazarus Nangombe, the deceased's new boyfriend waited for her to come back.

[3.1] The accused started beating the deceased, and she was screaming wanting to know why she was being beaten up, but there was no answer. The deceased ran away to avoid the continuation of the assault. He chased, caught up with her and stabbed her, on the neck and breast. The accused then disappeared in the darkness. Nangombe got help from Epedi, the two assisted to take the deceased side by side to the Clinic for medical attention. On arrival she asked to be attended to as her ex-boyfriend 'Striker' referring to the accused, had stabbed her. She died before receiving any medical help. The nurses testified that she had a stab wound on the lower part of her throat such that sound and blood was coming out from there. Milk was coming out from the stab wound on the breast which alerted the nurses to the fact that the deceased was still breastfeeding.

[4] The interest of society: The cry from the society is that the murder of defenseless women should stop, but nonetheless the situation continues unabated. The evidence before court does not disclose who terminated the relationship between them. It is nonetheless my considered view that there was no reason for the deceased's life to be lost in such a gruesome manner. The Prosecution handed in the accused's previous record relating to two convictions on cases of assault with intent to do grievous bodily harm on his ex-girlfriend Riana Goses which he accepted as his.

[4.1] The convictions on case nos. Omaruru-CRM-630/2009 date of conviction 24 September 2009 and Omaruru-CRM-230/2010 date of conviction 21 February 2011. The latter case reflects the full names of the accused as "Trougod 'Striker' Nanub". This is despite the fact that during the trial of the matter before this court he vehemently denied that 'Striker' was his name. It is further very interesting to note that during his bail application in the Omaruru District Magistrates Court, the accused stated the following in his evidence in chief:

"Q: How are you related to the complainant?"

A: Ex girlfriend”.

[4.2] The above evidence by the accused was confirmed by Riana Goses his ex-girlfriend and the complainant in the two Omaruru assault cases under oath. The accused was stalking her after she had terminated their relationship till he found her. He attacked her during the night. The accused did the same to the deceased on this matter before court. From the evidence it is very clear that he was stalking her during the evening in the riverbed. He called her and she went to him, then an attack was launched on her. The propensity of stalking and attacking his victims during the night after they had terminated their relationship with him is abundantly clear. It is obvious that the accused is a danger to female persons of our society and they need to be protected from him.

[4.3] During sentence on 630/2009 matter the Magistrate stated in his reasons that the accused did not show any remorse, despite the fact that “... he was not satisfied by only beating the complainant with bare hands, sticks and his fists. He also went on to get weapons like stones which he used to assault the complainant”. Although he was sentenced to N\$1 500 or three (3) months imprisonment the Magistrate found that the aggravating factors outweighed mitigating factors.

[5] On the matter before this court, counsel for the accused urged the court to take the accused's personal circumstances into account during the sentencing process. He asked for a suspended sentence. According to him the court has a discretion to take the six years old accused's previous convictions into account. Counsel's contention is not correct because the accused's first relevant previous conviction on assault with intent to do grievous bodily harm (beating and a stone was used) took place on 24 September 2009 which is seven years three months to his current conviction of 12 January 2017.

[5.1] The second conviction again on assault with intent to do grievous bodily harm (a sharpened wire and stones were used) took place on 21 February 2011 which is only five years and eleven months old to his current aforesaid conviction. These are all below ten years. Section 271(4) of the Criminal Procedure Act 51 of 1977 directs that the Court “shall” take such convictions into account when imposing any sentence in respect of the offence of which the accused has been convicted.

[6] In his submissions before sentence, counsel for the prosecution asked the court to sentence the accused to 45 years in prison. He based this request on the following reasons:

- The accused did not show any remorse for having stabbed his ex-girlfriend to death.
- He has previous convictions of assault with intent to do grievous bodily harm, which he perpetrated on his ex-girlfriend. He did this to her after she had terminated her relationship with him.
- The accused’s previous conviction shows that he always stalked his ex-girlfriend in darkness in order not to be easily detected.
- The accused used the same modus operandi in the matter before court. He stalked the deceased in darkness, as she was walking with her boyfriend.

[7] I am convinced beyond reasonable doubt that the accused’s conduct poses a danger to defenseless female citizens, because he is not a first offender. When regard is had to all the above it becomes abundantly clear that the accused’s personal circumstances including the four years and four months that he has already been in custody before the finalization of this matter are all outweighed by the manner in which he launches his vicious attacks on his ex-girlfriends. Women have the right to take decisions just like their male partners, and they should not be killed for simply terminating their relationship with their

male partners. It is for the above reasons that this court finds it to be appropriate that he be removed from the public for some time.

[8] In the result the accused is sentenced as follows:

Murder – dolus directus read with Act 4 of 2003:

Thirty eight (38) years' imprisonment.

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A M SIBOLEKA

Judge

APPEARANCES:

STATE : Mr. J. T. Kuutondokwa  
Office of the Prosecutor-General, Windhoek

ACCUSED : Mr. M. Engelbrecht  
Instructed by Directorate of Legal Aid