



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

CASE NO: CC 21/2017

In the matter between:

THE STATE

And

RODNEY RICARDO ROOI

ACCUSED

Neutral citation: *S v Rooi* (CC 21/2017) [2020] NAHCMD 46 (14 February 2020)

CORAM: SIBOLEKA AJ

Heard on: 04 February 2020

Delivered: on: 14 February 2020

Flynote: Criminal law: Murder committed in a domestic setting. The victim was stabbed several times as a result of which she was certified dead at the hospital.

A custodial sentence inevitable.

Summary: On the day of the incident the accused visited the deceased during the day. He came back at night and fatally stabbed her several times with a knife after she had refused to go with him to his residence.

Held: Crime, serious, and was committed for flimsy reasons.

VERDICT

In the result the accused is sentenced as follows:

Count 1: Murder read with the provisions of the Combating of Domestic Violence Act 4 of 2003: Life Imprisonment;

Count 2: Attempt to defeat the course of justice: Six (6) months' imprisonment.

SENTENCE

SIBOLEKA AJ

[1] On 29 November 2019 I convicted the accused on the following counts: Murder, read with the provisions of Act 4 of 2003; Attempting to defeat the cause of justice. It is now my duty to consider an appropriate sentence for him. In considering that I will take the following into account, his personal circumstances; the crime itself, and the interests of society. Closely related to the above are the objectives of punishment such as preventive; reformative; rehabilitation and deterrence. However, each matter is treated on its merits.

[2] The accused's personal circumstances were placed on record from the bar by his counsel. He is a Namibian citizen, residing at Aroab. He is currently thirty years of age, he was twenty seven years at the time of the incident. He is single, and has a four year old boy. Before his arrest he used to do casual work here and there. He went up to Grade Seven at school. Both parents are still alive,

also reside at Aroab and are receiving pension. After his arrest on this matter in 2017 he was granted bail but was unable to pay, the reason for remaining in custody to date. In mitigation of sentence the accused's counsel persuaded the Court to take the period the accused spent in custody into account.

[3] The accused's counsel submitted that, a severe sentence will not bring the deceased back. This reasoning is misplaced and it puts aside the fact that the community is reluctant to revenge or take the law into their own hands. The society therefore looks up to the Courts of the land for protection from these murderers. That is where a severe sentence should come in. The community's agony and in particular the suffering of female victims at the hands of their male partners should find expression in the sentences the Courts meet out to convictees of these heinous crimes. This counsel nonetheless went on requesting the Court to consider a sentence of twenty five years for murder; three years suspended for five years. On the second count the accused's counsel asked for a three years imprisonment that should be ordered to run con-currently with the twenty five years he suggested on the first count.

[4] In aggravation of sentence, the prosecution counsel submitted that the accused's personal circumstances are outweighed by the public interests. The offences the accused has been convicted on are even more serious when regard is had to the fact that they were committed in a domestic setting. The couple's child was seventeen months old at the time the accused murdered his mother (the deceased). The deceased had multiple injuries of eight stab wounds one of which fatally penetrated the left side of her chest resulting in the acute loss of blood.

[5] On the crime, the accused and the deceased were in a seven years six months standing domestic relationship. They had one child at the time of the incident. On the day of the incident, the accused came to visit the deceased at her parent's resident during the day and left only to come back at night. He found

the deceased with her sister, he called her, she went to him and they walked apart and were talking to each other. Suddenly the deceased started screaming, and the accused was simultaneously seen running away from her, jumping fences in the fleeing process.

[6] The deceased was taken to the hospital by her brothers and passed on there shortly thereafter. Dr. Vermeulen examined her body and found that she had multiple stab wounds one of which penetrated into the heart. This injury coupled with acute loss of blood the doctor endorsed to have resulted in her death. Hereafter the accused was seen hiding the murder weapon in the ground outside the shack in which the police found him sleeping. The police later found the said murder weapon at the spot where it was hidden.

[7] The prosecution counsel persuaded the Court to consider a sentence for life on the first count and five years' on the second count. In support of the above request this counsel cited the accused's previous record which the later confirmed as his, and signed. In brief the record's particulars are as follows:

On 12 March 2011 he was convicted on Rape in contravention of the Combating of Rape Act 8 of 2000, and was sentenced to six (6) years' imprisonment of which two years' was suspended for five years'.

On 03 December 2015 the accused was convicted of common assault in a domestic setting and sentenced to N\$700 or two months imprisonment.

On 26 May 2016 he was convicted on common assault (domestic setting) and sentenced to six (6) months imprisonment.

On 18 October 2016 he was convicted on common assault and sentenced to N\$1.000 or six (6) months imprisonment.

All the above convictions were committed on the deceased culminating in her murder during the period 25 - 26 February 2017.

[8] On the interests of society the message is very loud and clear, defenceless women and girls have to be protected at all costs. Those who find themselves convicted of ending the lives of their female partners in a domestic setting have to face the full wrath of the law.

[9] On this matter I have taken all the facts placed before Court, and in particular the manner in which the deceased's life was terminated. The fact that her life was ended for only refusing to go to the accused's residence that night. After fatally wounding the deceased with a knife he did not help to take her to a nearby medical care centre. He instead ran away from her, jumping fences in the process of fleeing from the scene, leaving her to die. The period of two years and seven months the accused has spent in custody before the finalization of this matter has been outweighed by the multiple stab wounds he inflicted on this defenceless victim. This is indeed a blatant flagrant disregard of other people's lives, a conduct this Court is legally bound to tackle with an iron fist.

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

Count 1: Murder read with the provisions of the Combating of Domestic Violence Act 4 of 2003: Life Imprisonment;
Count 2: Attempt to defeat the cause of justice: Six (6) months imprisonment.

A. M. SIBOLEKA

Acting Judge

APPEARANCES

STATE : Mr. M. H. Muhongo
Office of the Prosecutor-General, Windhoek

ACCUSED : Mr. M. Siyomunji
Directorate of Legal Aid, Windhoek