

THE STATE  
versus  
EDMORE MUJACHIRA

HIGH COURT OF ZIMBABWE  
BERE J  
MASVINGO, CIRCUIT COURT, 30 September, 1 & 2 October 2014

Assessors: 1. Mr Dhauramanzi  
2. Mr Mushuku

### **Criminal Trial**

*E. Chavarika*, for the State  
*D.B. Hwacha*, for the Accused

BERE J: On 22 August 2013 and at Longwork Village, Soti Source, Tongogara Resettlement, Gutu District, Kumbirai Mukaro (“the deceased”), an adult female lost her life in the most unusual circumstances. The deceased was stoned to death by the accused, one Edmore Mujachira. The stoning was not once, not twice, not even thrice but consisted of several stoning on the deceased’s head until she succumbed and died on the spot.

The accused and the deceased were neighbours and lovers. On the fateful day the two had a misunderstanding around their love relationship. The conflict degenerated into a nasty confrontation.

The misunderstanding started with the accused demanding that the deceased should not go to attend a ZANU P.F political meeting that had been pencilled for the day and to which the deceased was a secretary. The accused demanded that the two should go back home to resolve their differences. The deceased was not interested. She in fact preferred to go to the meeting.

Having made three or so abortive attempts to assault the deceased with a switch owing to the timeous intervention of the deceased’s mother, the accused resorted to picking and pelting stones at the deceased. The first stone hit the deceased on the stomach and this was followed by several stones aimed at the deceased’s head which rendered the deceased unconscious. To conclude the ugly assault the accused then picked up a stone which weighed

10,3 kgs and with excessive force crushed the deceased's head after which he remarked "I am now going". Indeed the accused left the scene unceremoniously.

The accused denied the allegations and sought to rely on the defences of provocation and self-defence.

Kesta Manhivi, aged 78 years and deceased's mother who had the misfortune of witnessing her daughter's demise in circumstances that she could not help prevent the 1<sup>st</sup> to give evidence.

The witness took us through all the stages of the assault of the deceased as it progressed and intensified starting with the accused's abortive attempt to use a switch, followed by the accused's resort to the use of the stones of varying sizes and ending with the double handed stone that was forced upon the head of the deceased by the accused.

This witness gave a graphic detail of how the deceased was ruthlessly attacked by the accused. The narration of events given by the deceased's mother was corroborated by the evidence of Jackson Muchemwa in all material respects. If there was need for further corroborations, the evidence came from a very unlikely source, the accused himself.

The story told by the accused person that his misunderstanding with the deceased was rooted in the deceased's concealment of her HIV status might probably be true but that story did not in our view render either the defence of provocation or self-defence sustainable.

There is no indication at all, and even accepting the accused's version that the deceased ever posed a threat to him to warrant the raising of the defence of self-defence. Equally true, the defence of provocation was not even worth raising because, again the events as put forward by the accused were far from convincing.

In any event it would be extremely difficult for the court to allow itself to be detained by the accused's version which was clearly inconsistent with the evidence of the credible evidence of the deceased's mother and Jackson.

This case is most unusual in that at the end of the whole process of the trial the State Counsel, the defence Counsel and the Court itself were unanimous in their assessment of the evidence and that the accused's story be rejected in preference of the evidence of the State witnesses. What will however remain a mystery is why the accused behaved in this most unusual way.

As observed by both Counsel and the Court itself, the intention by the accused person in this case can be inferred from the nature of the weapons used and how these were used.

The accused used several stones of varying sizes to strike the deceased on the head. The process was repeated even when the deceased lay motionless and presumably long dead at least according to the two State witnesses.

The post mortem report noted that the deceased had multiple crush injuries of the head and a fracture on the left frontal bone. The conclusion was that the deceased had died of head injuries.

The attack on the deceased was purposeful and repeated both from a distance and from close range. The conclusion of the attack by the accused who staggered with both hands to lift a 10,3 kg stone and casting it on the deceased's head was to ensure that the deceased died.

This is a simple case of a well-planned murder done with actual intent to kill.

Verdict – Guilty of Murder with actual intent.

#### SENTENCE

In our effort to arrive at an appropriate sentence we are enjoined to take the following factors into account.

We accept that the accused is a first offender who has spent 13 months at remand prison awaiting the conclusion of this case.

We will accept that the accused has 2 minor children, one aged 5 years and the other aged 2 years.

After the commission of this offence the accused handed himself to a neighbourhood watch committee officer from where he was subsequently arrested.

This is a murder that was committed in emotional circumstances which were centred on the acrimonious relationship that the accused and deceased were in.

In aggravation the following factors have not escaped our mind as a court.

The accused has not been candid with the court in these proceedings as evidenced by his flat deniable during the trial itself when he lied to the court that the deceased was his only girlfriend. Suddenly in mitigation the accused became a father of two children from a previous relationship whose existence was denied during trial. Such lies put the court in an extremely difficult situation especially when issues of sentencing are considered.

The manner of killing in this matter was most unusual. It was brutal and callous and done in the full glare of the deceased's mother who watched in agony and could not do anything to serve her daughter the deceased.

The persistent and systematic stoning of the deceased on the head even at the time when she lay motionless demonstrated the accused's resolve in killing the deceased. That naked absence of respect for human life is shocking to say the least. Those who fail to respect the life of others must be kept away from society for the good of society. Society is richer and refreshed without them.

If one is unable to regulate his own life, then it is only fair to pass that responsibility to other institutions like prison.

The accused struck us as a uniquely unremorseful character and it occurs to us that he deserves to be permanently removed from society. He has nothing to add to humanity.

Sentence- life imprisonment.

*Prosecutor-General, for the State*  
*Dumisani Brian Hwacha, Counsel for the Accused*