

HOLDEN AT LUSAKA

(Criminal Jurisdiction)

B E T W E E N:

GOLDEN MAKONDO

APPELLANT

-vs-

THE PEOPLE

RESPONDENT

Coram: Ngulube, D.C.J., Gardner and Sakala JJ.S.
1st September, 1987

For the Appellant : In Person

For the Respondent : Mr. K. C. Chanda, Senior State Advocate

J U D G M E N T

Ngulube, D.C.J., delivered the judgment of the court.

Originally this was to have been an appeal by two appellants but the Senior State Advocate has informed this court that the intended second appellant died on 15th February this year while waiting for his appeal. That appeal has accordingly abated with the death of that appellant.

The appellant, with two others including the deceased appellant, pleaded guilty to a charge of manslaughter. The particulars were that on 4th October, 1984 in the Mumbwa district, they unlawfully caused the death of the deceased person in this case. One of the accused persons was the appellant's father. The accused father found the deceased's younger brother-aged sixteen years-in flagrante delicto with the accused father's fourteen year old daughter. The deceased's younger brother ran away. The next day, the appellant and his co-accuseds went to look for the culprit; they found him and started to beat him when the deceased intervened to stop the chastisement. The trio then turned on to the deceased and beat him with sticks. He died as a result. The appellant now before us is complaining that the six years imprisonment with hard

labour imposed upon him was too severe, He argues in his written grounds that, since the killing was involuntary and since he was smarting under provocation so recent and so strong but he was not master of his senses at that time, more leniency should have been extended to him, as a first offender. We have taken into account these and other grounds advanced and note that the deceased who was killed did not himself do anything wrong. In the circumstances we can find nothing wrong with the sentence of six years. The appeal is accordingly dismissed.

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M. S. Ngulube
DEPUTY CHIEF JUSTICE

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B. T. Gardner
SUPREME COURT JUDGE

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E. L. Sakala
SUPREME COURT JUDGE