

IN THE SUPREME COURT OF ZAMBIA
HOLDEN AT NDOLA
(Criminal Jurisdiction)

APPEAL NO 16/2007

CHOLA TWENTY

APPELLANT

VS.

THE PEOPLE

RESPONDENTS

Coram: Sakala, CJ, Mumba, Chitengi, JJS
6th March, 2007 and 7th June, 2007

For the Appellant: Mr. E.M. Sikazwe, Acting Director of Legal Aid

For the Respondents: Mrs J.C. Kaumba, Deputy Chief State Advocate

JUDGMENT

Mumba, JS., delivered the Judgment of the court.

The appellant, Chola Twenty, was convicted on one count of manslaughter, contrary to Section 199 Chapter 87 of the Laws of Zambia. The particulars were that the appellant on 24th day of May, 2005 at Samfya in the Samfya District of the Luapula Province in the Republic of Zambia, unlawfully caused the death of Nkandu Mwelwa. The appellant was sentenced to a term of 21 years imprisonment with hard labour with effect from 24th May, 2005. He has appealed against sentence.

The appellant was originally charged together with two other persons, of the offence of murder contrary to Section 200 of the Penal Code, Chapter 87 of the Laws. After the prosecution closed its case, the learned Judge in the court below found that the

offence of murder had not been established, he acquitted the other two and set them at liberty. The appellant was found with a case of manslaughter to which he pleaded guilty and got convicted.

Mr. Sikazwe, learned Counsel for the appellant, informed the court that although the appellant had originally appealed against conviction and sentence, the appeal against conviction was abandoned, the submissions were only on the appeal against sentence. He filed written heads of argument on which he relied. The learned Counsel submitted that the appellant had pleaded guilty, that saved the court's time; the appellant was a first offender who had demonstrated remorse, the sentence of 21 years, though not coming to court with a sense of shock, was rather on the high side. Without citing any authorities, Counsel submitted that this court had ordered sentences lower than 21 years for convictions of manslaughter. Counsel, therefore, prayed for a lower sentence.

The learned Deputy Chief State Advocate left the appeal to the discretion of the court.

We have looked at the facts of this case, we are appalled at the brutal beating of the deceased. The postmortem examination report shows serious injuries including a ruptured spleen sustained by the deceased. We view the taking of life seriously.

However, in keeping with our jurisprudence on manslaughter convictions, we agree with the learned Counsel for the appellant that a sentence of 21 years is excessive in this case where appellant has pleaded guilty to manslaughter. We allow the appeal against sentence. The sentence of 21 years is set aside, we order that appellant serves 15 years imprisonment with hard labour with effect from 21st May, 2005.



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E. L. SAKALA
CHIEF JUSTICE



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F. N. M. MUMBA
SUPREME COURT JUDGE



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P. CHITENGI
SUPREME COURT JUDGE