

IN THE HIGH COURT FOR ZAMBIA
AT THE CRIMINAL REGISTRY
HOLDEN AT LUSAKA
(Criminal Jurisdiction)

HP/86/2014



BETWEEN:

THE PEOPLE

VERSUS

JABULANI KHUMALO
CEASER NYENDWA
MUSANIDE LINDILILANI
ARNOLD MUBITA

BEFORE : **HON JUDGE G. C. M. CHAWATAMA**

For the State : *Mr. G. Zimba & Ms Soko – National Prosecution Authority*

For the Defence : *Mrs M. Mwenya & Mr. C. Siatwinda – Legal aid Board*

JUDGMENT

CASES REFERRED TO:

1. *The People V Njobvu (1968) at Page 133*
2. *Emmanuel Phiri and Others V The People (1978) ZR 79 the Supreme Court*
3. *Kevious Sialuzi V The People (2006) ZR at Page 7 the Supreme Court*

AUTHORITIES REFERRED TO:

1. *Section 21 (1), 21 & 22, 200, 201(1), 201 (2) (a) and 204 of the Penal Code Cap 87 of the Laws of Zambia*

The accused persons stand charged on information containing one count of the offence of Murder *Contrary to Section 200 of the Penal Code Chapter 87 of the Laws of Zambia.*

The particulars of the offence are that the accused persons **Jabulani Khumalo, Ceaser Nyendwa, Musanide Lindililani and Arnold Mubita** on the 3rd day of November, 2013 at Lusaka in the Lusaka District of the Lusaka Province of the Republic of Zambia jointly and whilst acting together did Murder **Lawrence Mwamba.**

The Prosecution called five witnesses in support of the charge. Accused one, two and three elected to give evidence on oath. Accused four elected to remain silent. None of the accused called any witnesses.

PW1 was **Mike Zulu** he lived near Katete Bar where the alleged offence took place. On a day and month he could not remember he knocked off from work (as a mini bus driver) at 21:50 hours. He recalled being served his food and going to sleep. After a while he heard somebody screaming outside. The person was screaming that he was dying. **PW1** recalls peeping through the air vent. It was his testimony that the air vent had been stuffed with a cloth which he removed. He saw someone pulling a man. He observed that when this person was pulled out from the bar he would go back. It was his testimony that the house was 10 meters from the bar. He informed the court that on that night

the lights were on in his house and in the bar. He described the person who was being pulled as one who had dreadlocks and was light in complexion. It was his testimony that the people in the bar were beating him inside. When asked how he knew that they were beating him inside, he informed the court that where the fight was taking place the windows are broken and there is just a sieve through which he was able to see inside. He stated that when he saw a person get him and throw him outside, the person being beaten got back in again. He thought they were drunkards since they were in a bar. It was his testimony that he saw three people and the others were pulling him. It was his testimony that the fourth person was the man with a rasta. He decided to go back to sleep after observing what was going on in Katete bar.

Around 04:00 hours he woke up to people screaming. He went where a group of people was gathered and informed the people that the person who was beaten was beaten in the bar. He described the person he saw that morning as being light in complexion and had dreadlocks. It was his testimony that the person he saw was badly beaten and his legs appeared to be broken. The person died an hour later. It was **PW1's** testimony that he and those around went to check inside the bar.

The court was informed that **PW1** and others forced the door open. The grill door was opened by the person **PW1** identified as accused one. He denied knowing the person who opened the

door before this incident. In the bar he found blood and pieces of dreadlocks on the floor. **PW1** informed the court that he grabbed the person who opened the door, he observed that he had blood stains on his shirt. It was his testimony that when he looked hard at the person he had grabbed he recalled that he was the one he had seen pulling the person outside. That person he grabbed denied beating the deceased but that it was his friends who were behind the counter who beat him. Two people were pulled from behind the counter. He came to know one of the people they apprehended as Marcopolo whom he later identified as accused one. He identified accused two and accused three as the persons that were pulled from behind the counter.

When asked to clarify what he saw the previous night and the actions he observed the previous night where one person was pulling and the others were beating that person, his response was that they were inside and it was visible for him to see that a person was being beaten. **PW1** reiterated that he saw accused one pull the deceased. He stated that accused one was the one who said his friends were the ones who beat the deceased. **PW1** informed the court that he did not know accused two and accused three before this event occurred.

When cross examined **PW1** informed the court that when he peeped through the window he saw accused one pulling the

deceased. He said he also saw accused two and three. He said he did not see accused one, two and three beat the deceased person. It was his testimony that the people whom he saw fighting were looking drunk because they were in a bar. He restated that he saw a man pulling the deceased and identified this person as Marcopolo, accused one. He denied threatening the person he grabbed that morning. He admitted to switching off the lights fearing that those people were thieves and would attack him if they saw the light on. He admitted to being scared. **PW1** denied that there were many people in the bar because at that time the bar was closed and people had left. He denied mistakenly identifying the three persons as the people who attacked the deceased. He stated that they were the ones.

PW2 was **Adriana Chipasha Mwamba**. She is the mother to the deceased. It was her testimony that her son left home around 09:00 hours on the 2nd November, 2013. When she checked for him in the morning she noticed that he had not returned home. She phoned her daughter Cecilia and informed her that her brother had not returned home, Cecilia was asked to look for him. After an hour Cecilia called back informing her that Lawrence had been killed in Chipata Compound. **PW2** had an opportunity to see her dead son's body and described the injuries she saw to the court.

PW3 was **Cecilia Mwamba Mumba**, a sister to the deceased and a Nurse by profession. She confirmed receiving a call from her mother telling her that her brother had not come home the previous night and that she should look for him. It was her testimony that her brother used to frequent Phiri Tavern in Chipata Compound.

It was her testimony that as she and her husband were driving in Chipata Compound near Katete tavern, she saw a crowd of people gathered. She asked her husband to stop the car. She found her way through the crowd. She found her brother laying on the ground. It was her testimony that all her brother had on was a pair of boxers. She described the condition her brother was in. **PW3** testified that when she bent down to lift his head her left hand went straight in the opening that was at the back of his head. She saw another cut on the left side of the tempo of the head. She observed another cut on his forehead and one just slightly above his right eye. On the left shoulder was haematioma, a sign of blood stains. His right hand was cut, his whole body was covered in blood. The right knee and left leg had a cut. **PW2** recalled visiting Katete Tavern in the presence of Police Officers from Emmasdale Police Station. She saw dreadlocks all over the floor. She saw blood stains on the pool table, on a bench and on the wall. She also saw water mixed with blood on the floor and a bucket.

PW4 is the owner of Katete Tavern in Chipata Compound. It was his testimony that on the 2nd November, 2013 at 21:00 hours he left the tavern in the hands of Ceasar Nyendwa (Accused two) and Musanide Lindililani (accused three). Accused two is a barman and accused three assisted accused one in collecting tins used for drinking beer at the bar. Around 06:00 hours on the 3rd November he received a call from his friend Joe that there had been a break in at his bar. As he was dressing to go to the bar, two young men came to his home and confirmed the break in. He phoned his friend Joe who advised him to go to the Police because the situation at his bar was volatile. **PW4** informed the court that he went to Chipata Police Post. By this time the Police had already received a report. Whilst at the Police Post Caesar Nyendwa, Musanide and Jabulani Khumalo were brought.

It was his testimony that Jabulani Khumalo was his wife's brother. It was further his testimony that Jabulani often came to the tavern to chat and would sometimes spend nights there. **PW4** identified the three persons he was referring to in the dock. **PW4** informed the court that accused two and three used to sleep in the tavern. **PW4** informed the court that he had an opportunity to talk to accused one, two and three at the Police Post. He was informed that the accused were surprised to see people breaking into the bar accusing them of beating someone.

When cross examined it was **PW4's** evidence that he was informed that there was a break in at his bar. It was his evidence that when he left the tavern the night before Jabulani was not there. It was his testimony that when he questioned Jabulani he informed him that he was not at the bar at the time the incident took place that he was drinking at another bar and that when he left this bar he went and he found a fight at **PW4's** tavern in progress.

PW5 was **Luckson Mwiya** a Detective Sergeant based at Chipata Police Post. **PW5** followed up the report of a murder that occurred on the 3rd November, 2013. The person who was murdered was Lawrence Mwamba. Three persons were already in Police cells at the time. He identified accused one, accused two, and accused three as those in custody. **PW5** visited the crime scene around 07:00 hours. He found the body of the deceased a few meters away from Katete Tavern. Photographs of the body were taken. It was his testimony that he chose not to wait for the Scenes of Crime Officers because the scene was being disturbed. At the scene he picked up a tripod braii stand that had blood on it.

Accused four was apprehended by members of the public. All accused denied committing the offence. **PW5** identified both the braii stand and the photos he took. **PW5** described the injuries he saw on the head, chest and the fractured left leg. It was his

testimony that he observed that the deceased was bleeding from the head and mouth. A postmortem was conducted on the 6th November, 2013. It was the testimony of **PW5** that the four accused persons were in the tavern where the deceased person was murdered. According to **PW5** there was some corroboration from a witness that they saw the accused persons dragging the deceased at the tavern.

It was further his testimony that the accused were caretakers at the tavern. Accused four is said to have joined accused one, accused two and accused three. He was doing piece work outside.

When cross examined **PW5** informed the court that Jabulani participated in committing the offence. He stated that he did not know whether or not the members of the public beat up the accused persons. **PW5** denied investigating a break in at Katete Bar. It was his testimony that he did not know whether the deceased was a thief who went to steal at the bar or that the deceased and the accused were drinking together then a fight ensued. **PW5** denied investigating whether there was provocation on the part of the deceased.

Jabulani Khumalo the first defence witness (accused one) informed the court that on the 2nd November, 2013 he was drinking at a place called Joe Carter in Chipata Compound. He

went to Katete Tavern at past 22:00 hours. When he got there he found a fight in progress. He tried to separate those fighting but failed. It was his testimony that those fighting were Arnold Mubita, Musanide Lindililani, Ceasar Nyendwa and the deceased. It was his testimony that he took Arnold Mubita and the deceased outside and closed the door to the bar. It was **DW1**'s evidence that the following day he found a lot of people outside the door to the bar. When he opened the door the people began to beat him. He ran to the Police. After a while those who were left at the bar namely Musanide and Ceasar were brought to the Police Post.

It was his testimony that he was later questioned by the Police who did not seem to accept his explanation of events. He informed the court that he was tortured. He admitted that the Police brought to him a braai stand a knife and a panga and asked if he knew anything about the items. It was his testimony that he informed the Police that those items were used by people who braaied meat outside the bar and were kept in the bar for safety. He however, did not know their names. **DW1** denied seeing **PW1** the morning after the incident.

When cross examined **DW1** informed the court that he was at Katete Bar on the night in question. Further that his co-accused were at the bar since that is where they all slept. It was his testimony that Arnold Mubita was fighting with the deceased. It

was his testimony that he heard that the person who was fighting with Arnold Mubita had died whilst he was in the cells. It was his testimony that the other three accused persons were fighting with an unknown person. It was further his evidence that accused four and the deceased were punching each other. He denied dragging the deceased by his dreadlocks. It was his testimony that he pushed him outside. It was his testimony that he got blood on his shirt whilst separating those fighting.

He did not know the name of the person who was bleeding. **DW1** said he did not pay any attention to look around the bar for any blood stains nor dreadlocks on the floor. Afterwards he admitted that there was blood in the tavern. He admitted not reporting what he described as a bad fight to the Police. It was his testimony that Ceasar was at the counter when the fight took place and Musanide was at the pool table, the two just observed what was going on. It was his testimony that the Police wrote whatever they wanted and gave him a statement to sign. His evidence suggested that the braai stand had three legs and that in the state it was in now it could not stand. He was aware that one of the legs of the braai stand had blood stains. **DW1** informed the court that the following day he learnt that the fight was as a result of a quarrel that took place. Musanide and Ceasar informed **DW1** that the quarrel was as a result of the deceased stabbing Arnold on the hand. He admitted that he was the one who opened the door the next day.

The second defence witness was **Ceaser Nyendwa**, (accused two). He admitted that he was a barman at Katete Tavern. On the night in question at 22:00 hours, Arnold Mubita came to the bar. According to **DW2**, Arnold did odd jobs at the bar. Arnold had gone into the bar to ask for something to cut a container with. Accused two and three heard noises from the toilet, they went where the noise was coming from. It was **DW2**'s evidence that they found Arnold struggling with the deceased. When he asked why the two were fighting, he was told that Arnold said he had been stabbed with a screw driver by the deceased. **DW1** testified that accused three and himself left the two fighting. After a while those fighting came into the bar. **DW2** informed the court that Arnold continued to beat the deceased. **DW2** went on with his work recording the day's taking and packing crates of shake shake. Jabulani (**DW1**) came in and he inquired from Arnold why he was beating the deceased, he was told about the stabbing with a screw driver.

DW2 informed the court that he saw **DW1** push Arnold and the deceased out of the bar. The following morning he heard noise outside. It sounded as if people were throwing stones on the roof and at the windows. He heard people asking them to open the door saying that they had beaten somebody. He recalls seeing **DW1** opening the door. People entered the bar, some went to the counter and stole money. He became scared and fearing that he would be harmed he ran to the Police. **DW2** agreed that what

PW1 said about living near and seeing a person being pushed outside the bar was true.

When cross examined **DW2** informed the court that he did not pay attention to see if the deceased had any injuries when he was fighting with Arnold. He admitted seeing the deceased's nose bleeding and a cut on his eyebrow. He recalled being shown an injury sustained by Arnold on his left hand, which injury he described as a bruise. He admitted that there was a braai stand which had two legs kept in the bar.

The third defence witness was **Musanide Lindililani**. It was his testimony that he worked as a cleaner at Katete Bar. **DW3** informed the court that Arnold did the work of unblocking toilets at Katete. He recalls giving Arnold a panga so that he could cut a plastic container. It was his testimony that after Arnold went to the toilet he heard noises. He went in the direction of the noise, and found accused four struggling with the deceased. He learnt that the deceased had stabbed Arnold using a screw driver. He went back in the bar, Arnold and the person he was beating also entered the bar. Arnold beat the deceased using a panga and would threaten **DW2** when he tried to stop him or intervene in any way. When Jabulani (**DW1**) came he managed to separate the two and took them outside and closed the door.

The following day a group of people gathered, entered the bar and began to beat **DW3**. He feared for his life and escaped finding his way to the Police Post. It was his testimony that Arnold ran away after **DW1** pushed him and the deceased outside.

When cross examined **DW3** informed the court that the bar closed at 22:00 hours but that on that night they closed the bar at 22:30 hours. It was his testimony that before the fight broke out he was picking bottles and clearing tables. He admitted that **PW1** was right when he said the lights were on in Katete Bar. **DW3** admitted seeing accused four beat the deceased with a panga, he stated that he did not report this to the Police. It was his testimony that **DW2** and accused four were already working in the bar when he began to work there. It was his testimony that whilst Arnold was beating the deceased he just went ahead doing his work.

For the offence of murder to be proven the court must be satisfied beyond all reasonable doubt that the accused persons caused the death and that the homicide falls within the ambit of **Section 200 and 204 of the Penal Code Cap 87 of the Laws of Zambia** that is, that the act was done with malice aforethought. These Penal provisions states as follows:-

Section 200

“Any person who with malice aforethought causes the death of another person by an unlawful Act or omissions is guilty of murder.”

Section 204

“Malice aforethought shall be deemed to be established by evidence proving any one or more of the following circumstances.”

- a) *An intention to cause the death or to do grievous harm to any person whether such a person is the person actually killed or not.*
- b) *Knowledge that the act or omission causing death will probably cause the death or grievous harm to some person, whether such person is the person actually killed or not although such knowledge is accompanied by indifference whether death or grievous bodily harm is caused or not, or by a wish that it may be caused.*
- c) *An intention to commit a felony*
- d) *An intention by the Act of Omission to facilitate the flight or escape from custody of a person who had committed or attempted to commit a felony.*

As was summed up by Blagden CJ in ***The People V Njobvu (1968) at Page 133¹*** it must be proved that:

1. *The accused caused the death*
2. *By an unlawful act, and with*
3. *Malice aforethought*

I have examined the evidence on record. As usual in all criminal cases, the burden of proof always remains with the Prosecution who must prove beyond reasonable doubt that the accused persons are guilty as charged.

The evidence of the Prosecution which served to link the accused to the offence of murder was that of **PW1**, **PW2**, **PW3**, **PW4** and **PW5**. The court relied heavily on the evidence of **PW1** as he was the only eye witness at the time the offence was committed.

PW1's evidence was confirmed by **DW3** that the lights were on in the tavern. **PW1** saw the deceased being beaten in the tavern whose glass were broken and in the space where the glass was to be was a sieve through which he could see. This too was admitted by **DW1**, **DW2** and **DW3** who further confirmed that the deceased was beaten in the tavern.

DW1 stated that the deceased was beaten by accused two, three and four, although this is against the evidence of **DW2** and **DW3** who denied beating the deceased. **PW1** who stated that he saw three people plus the person who was being beaten which put the number of persons in the tavern to four. He saw one person pulling the deceased outside whilst two pushed him from inside.

When **PW1** woke up at 04:00 hours the following morning, he joined a group of people who had gathered around the deceased. This is the place where **PW3** found the deceased.

PW1 was able to identify accused one as the person who opened the grill door. **PW1's** evidence that he saw blood and pieces of dreadlocks on the tavern floor was consistent with that of **PW3** who testified that when she entered the tavern she saw dreadlocks and blood on the floor, on the pool table, on the benches, on the wall and that there was water mixed with blood in a bucket an indication that that was the crime scene. **PW2** and **PW3** also described the injuries they saw and both stated that some of the deceased's dreadlocks were pulled out. Photographs taken by **PW5** at the crime scene were produced in evidence. **DW1** confirmed that there was blood on the tavern floor. The photos also showed that there was blood on the floor of the tavern.

PW1 recognized **DW1** (accused one) as the person who was pulling the deceased. This is also as per evidence of accused one himself as well as accused two and three. **PW1** further identified accused two and three as the persons accused one called when **PW1** entered the tavern. This evidence was confirmed by accused two and three. **PW1** was a credible witness whose evidence was unchallenged if not corroborated by the accused persons themselves.

The evidence of **DW1**, **DW2** and **DW3** was that the deceased was beaten with a panga and with fists. There was an admission that there was blood found on the leg of the braai stand. **DW1** admitted to identifying a braai stand, a panga and a knife at the Police Station as items found in the bar.

PW4's testimony touched on those he left in the tavern on the night in question. He identified accused two and accused three as those he left in the bar. He was present when accused one, two and three were taken to the Police Post, contrary to the evidence of the defence witnesses who said they ran to the police post out of fear of being harmed.

The court also relied on the evidence of **PW5** the Arresting Officer. He is the one who retrieved a leg of the braai stand that he said had blood on it an indication that it was used to cause harm to the deceased. He is the one who interviewed all the accused. It was his testimony that accused four was taken to the Police Post by members of the public. He did not explain under what circumstances accused four was apprehended and taken to the police station by members of the public. **PW5** was the one who took photos of the deceased at the crime scene. Some of the photos were of dreadlocks which were found at the crime scene. Another photo was of blood stains.

The evidence of **PW4** and **PW5** like that of **PW1** placed accused one, two and three at the scene crime.

The evidence of accused one, two and three confirmed that they were at the scene crime and they in turn placed accused four at the scene also. The evidence of the actual beating of the deceased came from **PW1**. **DW1**, two and three's evidence served to inform the court what was used to injure the deceased. The accused in giving their evidence implicated each other and accused four.

A review of the cases on the evidence of accomplices reveals that as a rule a court should not convict on the unsupported evidence of an accomplice. The court should acquit unless the testimony of the accomplice be corroborated not only as to the circumstances of the offence, but also as to the participation in it by the accused. The term Accomplices is not an easy one to define. However, the following are within the term:-

- 1) *Participants in the crime charged, either as principals or accessories*
- 2) *Receivers of stolen property in respect of the trial of the thieves from whom they received the property.*
- 3) *Parties to crimes which are admissible as similar facts.*

Participants include procurers, aiders and abettors – **Section 21 (1) of the Penal Code** states that:

“When an offence is committed, each of the following persons is deemed

to have taken part in committing the offence to be guilty of the offence, and may be charged with actually committing it, that is to say:-

- a) Every person who actually does the act or makes the omission which constitutes the offence.*
- b) Every person who does or omits to do any act for the purpose of enabling or aiding another person to commit the offence*
- c) Every person who aids or abets another person in committing the offence.*
- d) Any person who counsels or procures any other person to commit the offence.”*

Black’s Law Dictionary defines an Aider and Abettor as:

“One who assists another in the accomplishment of a common design or purpose. He must be aware of and consent to such design or purpose. One who advises, counsels, procures or encourages another to commit a crime; himself being guilty of some overt act or advocacy or encouragement of his principal; actually or constructively present when crime is committed and participating in commission thereof by some act, deed, word or gesture and sharing the criminal intent of the principal, the one who assists another to commit a crime; may be a principal if present, or an accessory before or after fact of crime. The crime must usually be a felony because all parties to misdemeanour are generally principal.”

Corroboration warning is needed only when the accomplice testifies for the Prosecution; there is no rule or law requiring it to be given where the accomplice is testifying for the defence even where such evidence is damaging to another co-accused, in such cases it is always a matter for the discretion of the court.

In the case of *Emmanuel Phiri and Others V The People (1978) ZR 79* the *Supreme Court*² had this to say:-

“A Judge (or Magistrate) sitting alone or with assessors must direct himself and the assessors, if any, as to the dangers of convicting on uncorroborated evidence of an accomplice with the same care as he would direct a jury and his Judgment must show that he has done so. No particular form of words is necessary for such a direction. What is necessary is that the Judgment shows that the Judge has applied his mind to the particular dangers raised by the nature and the facts of the particular case.

The Judge should then examine the evidence and consider whether in the circumstances of the case these dangers have been excluded. The Judge should set out the reasons for his conclusions, his mind upon the matter should be revealed. As a matter of law these reasons must consist of something more than a belief in the mirth of the evidence of the accomplices based simply on their demeanor and the plausibility of their evidence. Considerations which apply to any witness, if there be nothing more the court must acquit.”

The something more must be circumstances which though not consisting corroboration as a matter of strict law, yet satisfy the court that the danger that the accused is being falsely implicated has been excluded and that it is safe to rely on the evidence of the accomplice implicating the accused. This is what is meant by special and compelling grounds.

It is clear from the evidence before me that accused one, two and three took part in the beating that led the death of the deceased. Contrary to what accused one testified in his defence, the pulling was a repeated action and not once off, nor one of pushing the

deceased and **DW4** to go and continue fighting outside the bar. Nothing was mentioned against accused four by **PW1**. Infact, according to him there were only four people in total in the bar at the time of the fight.

Therefore, the evidence connecting accused to the crime was the evidence of his co-accused.

In the case I have cited above (Emmanuel Phiri and Others V The People) the Supreme Court has directed that the Judge should be satisfied that the danger that the accused is being falsely implicated has been excluded and that it is safe to rely on the evidence of the accomplice implicating the accused.

Other than the evidence of accused one, two and three who can safely be called accomplices, I have no evidence before me to exclude the dangers inherent in the evidence of accomplices. Accused four may be falsely implicated. There is no corroboration of the evidence of accused one, two and three in relation to accused four and definitely there is nothing more to compel me to rely on their evidence. Besides if the demeanor of the accused is anything to go by, I found the testimonies of the accused full of inconsistencies.

One issue I would like to consider here is whether there was unity of purpose among the accused persons: Provisions of

Section 21 and Section 22 of the Penal Code, Chapter 87 of the Laws of Zambia. Section 22 provides that:

“When two or more persons form a common intention to prosecute an unlawful purpose in conjunction with one another, and in the prosecution of such purpose an offence is committed of such a nature that its commission was a probable consequence of the prosecution of such purpose, each of them is deemed to have committed the offence.”

From the evidence before me I am satisfied that there was unity of purpose between, accused one, two and three, whether before or during the actual committing of the offence. The probable consequence of that kind of beating is the death of the victim.

I therefore find accused one, two and three guilty of murder as charged and convict them accordingly. As I stated earlier, I do not find sufficient evidence on which to convict accused four and I order that he be set at liberty forthwith.

Section 201 (2) (a) of the Penal Code defines extenuating circumstances. There are no facts that would diminish morally the degree of the convicted persons guilt. In my judgment although the accused were in a place where alcohol is sold the defence of drunkenness was not raised nor did the court find it necessary to address it. In the case of *Kevious Sialuzi V The People (2006) ZR at Page 7 the Supreme Court³* held in part that:

“A court is not required to deal with every possible defence that maybe open to an accused person unless there is some evidence in question. In this case there was none.

The possibility of drunkenness as a defence available to the accused was ruled out. There being no extenuating circumstances in accordance with **Section 201(1)** of which states that:

“Any person convicted of murder shall be sentenced to death.”

I hereby sentence you to death. In accordance with the provisions of **Section 303 of the Criminal Procedure Code**, I direct that you Jabulani Khumalo, Ceaser Nyendwa and Musanide Lindililani shall be hanged by the neck till you are dead. May the Lord have mercy on your souls.

You have a right to appeal to the Supreme Court if you are unhappy with my decision.

DELIVERED AT LUSAKA THIS 11TH DAY OF FEBRUARY, 2016


G.C.M CHAWATAMA
JUDGE