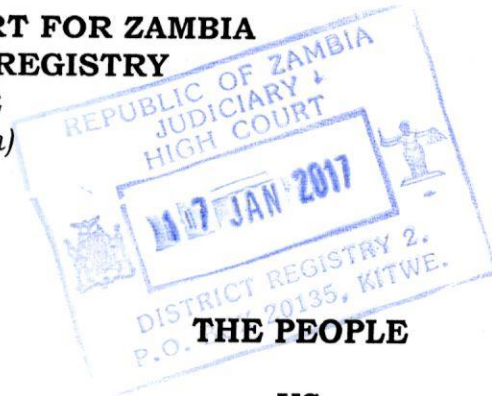


**IN THE HIGH COURT FOR ZAMBIA
AT THE DISTRICT REGISTRY
HOLDEN AT KITWE**
(Criminal Jurisdiction)

HK/118/2017

BETWEEN:



THE PEOPLE

VS

SHADRICK MWASIKA (A1)

SIMON CHANDA (A2)

Before: Honourable Mrs. Justice C. B. Maka - Phiri in Open Court at Kitwe on the 17th day of January, 2018.

For the People: Mrs. J. M. Sililo, State Advocate

For the Accused: Mr. P. Chavula, Senior Legal Aid Counsel and Mr.
Kapukutula, Legal Aid Counsel

R U L I N G

Legislation referred to:

1. The Penal Code, Chapter 87 of the Laws of Zambia

Shadrick Mwasika and **Simon Chanda**, the accused herein, stand jointly charged with the offence of murder contrary to section 200 of the Penal Code. The particulars of offence allege that Shadrick Mwasika and Simon Chanda on a date unknown but between the

21st and 27th day of January, 2017 at Chililabombwe in the Chililabombwe district of the Copperbelt Province of the Republic of Zambia, did murder one Richard Sinoya. Both accused persons pleaded not guilty to the charge.

The prosecution's evidence on record shows that Richard Sinoya the deceased herein died of Hemorrhagic shock and acute respiratory failure. The deceased had his limbs cut and he sustained broken ribs. Though the deceased's body was retrieved from the dam, the pathologist ruled out drowning as the cause of death. Clearly the deceased was murdered in cold blood.

As to who murdered the deceased, the evidence is circumstantial. The prosecution has shown that the deceased and his friend PW2 had made a boat for the 1st accused. After the 1st accused got the boat, the deceased and PW2 went to the same dam where the deceased's body was retrieved from to try out the boat. The 1st accused needed the boat for purposes of smuggling mealie meal across the dam to Congo DR.

It is not in dispute that the deceased was last seen alive on 21st January, 2017 when the 1st accused person picked him from his home. The 1st accused reported the missing of the deceased to PW1 on 22nd January, 2017. The 1st accused thereafter assigned the 2nd accused person to look for the deceased in the dam. The 2nd accused person found the deceased's body in the dam on 27th

January, 2017 under circumstances that begs an explanation. Thereafter, the 2nd accused disappeared from Chililabombwe and was apprehended in Kabwe on 3rd April, 2017. Following institution of investigations in the murder case, the 1st accused led the police to the recovery of the alleged murder weapon which was admitted in evidence as P2.

From the prosecution's evidence outlined above, I am satisfied that a prima facie case has been established against each accused person. Any reasonable tribunal may in my considered view convict on the prosecution evidence on record. I therefore find each accused person with a case to answer on the charge of murder and I put each one on defence.

Delivered in Open Court at Kitwe this 17th day of January, 2018



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C. B. MAKA - PHIRI (MRS.)
HIGH COURT JUDGE