

## **MICHAEL COETZEE v THE PEOPLE (1995) S.J. (S.C.)**

SUPREME COURT  
NGULUBE, C.J., CHIRWA AND MUZYAMBA, JJ.S.  
5TH DECEMBER 1995  
APPEAL NO. 135/95

### **Flynote**

**Manslaughter - Plea of guilty - Effect as mitigation**

### **Headnote**

The appellant and the deceased stood loosely in the relationship of husband and wife and that on the day in question they had gone to a drinking place. The wife was found chatting with another man whereupon the appellant launched a vicious attack and beat up the wife. She died from the injuries sustained. The appellant pleaded guilty to the charge of unlawfully causing the death of the deceased. He was sentenced to undergo six years imprisonment with hard labour following upon his conviction on a charge of manslaughter. The appellant appealed.

### **Held:**

- (i) **Six years did not reflect the credit which was due for a plea of guilty to the offence and for the fact that the appellant was a first offender.**

**For the appellant: Mr Kabonga, director of Legal Aid**

**For the respondent: Mrs Sokoni, Acting Senior State Advocate**

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### **Judgement**

**NGULUBE, C.J.:** delivered the judgement of the court.

The appellant was sentenced to undergo six years imprisonment with hard labour following upon his conviction on a charge of manslaughter. He pleaded guilty to the charge of unlawfully causing the death of Barbara Njelesani on 29th December, 1994 at Luanshya. The facts recited showed that the appellant and the deceased stood loosely in the relationship of husband and wife and that on the day in question they had gone to a drinking place. The wife was found chatting with another man whereupon the appellant launched a vicious attack and beat up the wife. She died from the injuries sustained. Mr Kabonga has urged upon us to exercise leniency. He has pointed out the personal circumstances of the appellant including the plight of the family that he has left behind.

We have taken note of the plea of leniency. Of course we do not lose sight of the fact that wife-beating should not be encouraged in this day and age and that as a general rule offenders can expect to be dealt with very harshly. However, in this particular case, we do not lose sight of the fact that the appellant pleaded guilty and so spared the court the need to hold a lengthy trial. That has always been good mitigation, although it has not been repeated before us. We have, as we say, considered all the circumstances of this case and we are satisfied that six years does not reflect the credit which was due for a plea of guilty to the offence and for the fact that the appellant was a first offender.

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