

STATE
versus
MADALITSO RANCHI

HIGH COURT OF ZIMBABWE
TSANGA J
HARARE, 19 & 20 July & 2 August 2017

ASSESSORS: 1. Mr Gweme
2. Mr Mhandu

Criminal Trial

A Muzivi, for the State
S Mapurisa, for the accused

TSANGA J: The accused Madalitso Ranchi, a male adult, was charged with murder in that on the 25th of July 2015 at B 37 Beatrice Location, Beatrice he had unlawfully and with intent to kill murdered his wife Pamela Muzondo, or realising that there was a real risk or possibility that death might result, had struck the deceased with an unknown object thereby causing injuries from which the said Pamela Muzondo died. The accused pleaded not guilty. The essence of his defence was that he never intended to kill the deceased, but had lost control after finding her with a lover.

The state led direct evidence from two persons in its line of witnesses. The direct evidence came from Susan Unati Moyo the deceased's daughter and step daughter to the accused. Stanford Bonde the alleged paramour also gave evidence. The witnesses whose evidence was accepted in terms of s 314 of the Criminal Procedure and Evidence Act [*Chapter 9:07*] included that of Laina Muzondo, the mother of the deceased, Ganizani Ranchi the brother of the accused, Kudakwashe Hwari a cousin of the deceased, and, Dzingarai Brighton Mozorodze a member of ZRP stationed at CID Beatrice. The post-mortem report sworn to by Dr Mauricio Gonzalez was also admitted into evidence by consent.

It was not in dispute that the accused had killed the deceased. The core issue for determination at the trial was whether he had indeed done so out of provocation from discovering his wife's infidelity.

The state's evidence

Susan Unati Moyo: She is 11 years old. She told the court that the day in question was a Saturday morning (25th of July 2015), when her mother had been washing plates outside but had not finished. She had also started doing laundry but had not finished when she had been called inside the house by the accused. She herself was playing outside with her young brother. Whilst at the sink outside she had heard her mother cry out “*maiwee*”. She had not seen her mother come out of the house again. Her brother who was feeling hungry had gone to knock at the door. The accused had come to the door and had given them \$50.00 to go and purchase food. They had bought biscuits and drinks. They had returned and had eaten outside. Thereafter the accused had told both of them to go to their grandmother's house with specific instructions that they were to say that they had been sent there by Stanford Bonde. The accused told them that their mother had gone to work and had given them 50 cents to use on their way to their grandmother's. They had arrived towards sunset and she had told her grandmother as instructed to say.

In cross examination, she said she knew Mr Bonde as an elder at their church. He had not been a visitor at their house on either the Friday or the Saturday. She had last seen him at church the previous Sunday.

Stanford Bonde: His evidence was that he knew the deceased as a fellow parishioner at Living Word Citadel. He also knew the accused as the accused was at one time the pastor. The accused had later formed his own church after facing fraud charges for the double sale of stands. He had elected to form his own church rather than face censure by the church.

On the 27th of July 2015, Laina Muzondo, the deceased's mother, had come to his house looking for him. She had stated her grandchildren had come to her house on his instructions and wanted to know if he had seen the deceased on that day that he had instructed the children to come. He had told her that he had not sent the children at all to her and neither had he seen the deceased on the day in question. He had referred her to the accused's mother's house. She had returned with the accused's mother and two of the accused's brothers. They told him that they had gone to the deceased's residence and had broken the door and what they had found had been a letter purportedly written by Pamela to him. He had told them that it was not possible for Pamela to have written such a letter unless she had lost her mind.

The contents related to his coming to visit her at night on the pretext of going for prayers. The letter also related how she had had to abort his child and yet he was no longer coming to visit. He told the court that he had never had any relationship with the deceased and therefore found the letter strange and unlikely to have been authored by the deceased. He had told the relatives as much. He had last seen her on the 19th of July 2015 at church.

When shown the letter he had suggested that the police be contacted instead of wasting time. On the 28th of July he had been summoned to the police station by the police. That same afternoon he had again been visited by Laina Muzondo and the deceased's sister who wanted an explanation regarding the letter and if he knew where Pamela was. He had suggested that for the sake of progress it would be best to ask the children in his presence who had really sent them since he had never done so. They had advised him that they would return as they needed to go to the house to fetch the children's clothes as the children had come to their grandmother's without carrying any clothes. He had gone to Laina Muzondo's house later that day and Susan had been called. When asked where her mother had been on that day Susan had narrated the events of that day which have already been captured. She had then also revealed that they had been sent by the accused and his admonition that they were not to reveal that he was around. They had proceeded thereafter to file another report at the police station. The police had come to his house the following morning and they had gone with him to the deceased's residence together with the accused's brother. As the place had a foul smell, in tracing its source the police had requested the bed to be lifted. That is where the deceased's body had been found in a dish. He had also spent that night in detention under investigation but had been subsequently cleared.

As regards the letter, he told the court that the police had established from the accused once he had come back into the country and had been arrested, that he was the one who had in fact authored the letter from a page taken from his own diary. It had also been established that it was the accused's handwriting. Asked in cross examination whether he had ever visited the accused's house, he explained that he had done so at the time when the accused was still their pastor, when, as a church elder, he and others used to pass through the pastor's house to collect chairs.

Core issues from the admitted evidence

Of significance from Laina Muzondo's admitted evidence was that when she had checked with her neighbours after learning that the deceased had not gone to work on the 28th of July, they confirmed having last seen the deceased on the 25th of July 2015 which was a Saturday. Of importance from Ganizani Ranchi's evidence was that when they went into the house on the 28th of July after he deceased had failed to show up for work the only suspicious thing they had found had been the letter purportedly written by the deceased which was then taken by the accused's brother. From the admitted evidence of Dzingirai Brighton Mazorodze from the Criminal Investigation Department was that after the discovery of the body on 30 July 2015, he had searched the whole house and observed blood stains on the door wall, drops of blood from the door wall on the floor to be bed and stains of blood on a cardboard box used as a washing basket. From the admitted evidence of Dr Mauricio Gonzalez was the crucial fact that the deceased had died from haematoma, and head trauma due to assault.

The accused's evidence the accused narrated how he had returned home on Friday the 24th of July 2015 from Malawi where he had travelled for three weeks to preach. He would go often to Malawi. He had knocked but had received no answer. The door was unlocked and he had opened. He heard voices inside. The children were sleeping. He had proceeded to the bedroom where he had found a half-clad Stanford Bonde sitting on his bed who had his trousers on but had no shirt. His wife wore a short nightie and no panties. Stanford Bonde had tried to talk to him but he had just stared at his wife in disbelief while Stanford Bonde taken his shirt and had walked out.

He had checked on the floor and observed a used condom. He had asked his wife what had taken place since he loved her very much. She had insisted on asking for forgiveness. In anger he had asked her to leave and go to the dining room. She had insisted on explaining herself and that is when he had pushed her hard through the door opening which had no door frames but sharp brick edges. She had hit her forehead and had fallen backwards but facing upwards. She was bleeding. He had washed the wound using water from a big green tub that his wife kept in the bedroom. He had also removed her night dress intending to take her to hospital. He had dressed her in her underwear, a black skirt and blue T shirt. He had tried to use a towel to stop the haemorrhage but she had continued bleeding. All the while she had groaned in pain before taking her last breath and falling down dead.

He had thought of waking the children but had realised it was not necessary. Thereafter he had mopped the blood on the floor so that the children would not see it as they were in the

habit of coming to the bed room. He had taken the body and put it in the green tub because he did not want the children to see the body when they woke up the following morning. He had put the green tub under the bed and had slept in the dining room.

The children had woken up the next morning without noticing what had happened. He had told Susan that her mom had gone to work. At around 11am her young brother had come complaining of hunger and that is when he had given them money to go to the shops. When they came back and had eaten that is when he had told them to pack their bags and go to their grandmother's house. He admitted telling them to say they had been sent by Stanford Bonde because their grandmother thought he was in Malawi. He had locked the door after their departure and had proceeded to Malawi.

His father had called him in Malawi to say he should come back as something had happened to his wife but had not told him his wife was dead. By then, of his own volition, he had made up his mind to return and turn himself in so the law would take its course. Upon his return on the Thursday night he had been intercepted by armed police on his way home at around 1.am to tell his parents what had transpired. He had been locked up and forced to write a statement. On the Saturday he had been taken for indications all the while with the police telling him what to say. The accused told the court that they would even stomp on his foot when he refused to do their bidding particularly as regards what they wanted him to say with respect to what he had used to assault the deceased. He had refused to sign the documents. Suffice it to state they were not part of the record.

In cross examination he was challenged on the variance of his story with that of the witness Susan Moyo on the crucial score that the deceased had been at home on Saturday morning and that she had washed some dishes and done some laundry, which tasks she did not complete because he had called her inside. He insisted that the incident had taken place on Friday night when he returned and that the children were asleep. On why the children had not seen Stanford Bonde on either the 24th or the 25th, his answer was that they were fast asleep on the 24th when the incident occurred.

Asked why the deceased would have written a letter to Stanford Bonde if she had been sleeping with him on the night of the 24th, the accused stated that the letter had been written a long time ago when they were in love. He had not queried the evidence-in-chief by Stanford Bonde that the police had unearthed that the accused had in fact written the letter and this was put to him. When it was also put to him that he had used an unknown object to assault his wife,

he stated that he had just arrived would not have had a chance to find a weapon. Additionally, when it was put to him that he was not provoked and that the extramarital relationship was in his mind, he maintained that he did not appreciate what he was doing when he pushed the deceased and that he only came back to his senses later on. He was insistent that the adulterous act was something that he had seen with his own eyes.

On the inconsistency of his conduct with that of an innocent person – that is hiding the body, telling the children to lie and then fleeing to Malawi, his explanation was that he had been gripped by fear of his in laws, the police, and, what neighbours would think of him. Primarily, he feared being attacked and another death ensuing.

The closing submissions

The State argued that the evidence of its witnesses should be preferred over that over the accused as the latter had not been a credible witness in his evidence. Moreover he had been shown to have lied on two issue-namely telling the children not to mention he was home on the day he sent them to their grandmother and also as regards the letter that had been found in the house which the police had unearthed had been written by himself.

In addition, no condom had been found by the family members who searched the house or by the police to lend credence to his version of events and yet they had found his letter which he had left for all to see on top of the sub hooper. The state further argued that the evidence of Susan Unati as a child witness had been given in an intelligent and credible manner. [*S v Moyo* HH 236-16; *S v Sibanda* 1994 (1) ZLR 394 (S)]. Mr *Muzivi* further argued that the accused was not at the time suffering from any acute emotional stress or diminished responsibility and that he knew exactly what he was doing. He relied on the case of *S v Gambanga* 1997 (2) ZLR 1 where the accused had been found to have known what he was doing under similar circumstances when he killed his wife. He had been found guilty of murder with constructive intent. He further argued that the accused has the burden of proving diminished responsibility. [*S v Jafta Dube* 1997 (1) ZLR 229 (H)]. No medical evidence had been placed before this court to show that the accused was suffering from mental disturbance at the time. Mr *Muzivi* also argued that from his conduct the accused had foresight of the real possibility of death and he had recklessly regardless. [*S v Mugwanda* 2002 (1) ZLR 574 (S); *S v Gumbi* 1994 (2) ZLR 323 (S)]. In the final analysis, he argued that neither provocation nor diminished responsibility had informed the accused's actions in this case. He therefore urged the court to find a verdict in terms of s 47(1) (b) of the Criminal Law (Codification and Reform) Act [*Chapter 9:23*].

Ms *Mapurisa*, on the other hand, emphasised in her closing submissions that the accused had no intention to kill and that he was seriously provoked and lost his senses. She argued that the evidence of the Susan Moyo should not be relied upon as she was susceptible to being coached to lie and could again have lied to the court in the same manner she had done to her grandmother. She emphasised that the child's evidence pointed to the fact that the accused and the deceased lived peacefully and as such the accused would not kill his wife for no reason. Counsel also highlighted that Stanford Bonde in his evidence had not portrayed the accused as a bad person other than the fraud charges that he had faced at one time. Furthermore, she argued that the fact that Stanford Bonde had indeed visited the accused's home meant that it could not be ruled out that he had done so on the night in question. She put forward that the State was ultimately relying on circumstantial evidence which had to be treated with caution. *S v Mlambo HH 43-16*.

On intention she argued that any reasonable person would not have foreseen death ensuing. (*S v Tazvinga* 1968 RLR 121). In her view, there was also reasonable doubt as to whether any weapon had been used. The fact of putting his wife's body and then hiding it was emphasised as indicative of his temporary insanity as no reasonable person would do that. She maintained that had it not been for the adultery, he would not have killed his wife. In the final analysis, she argued that the accused should be found guilty of culpable homicide and not murder.

The legal position

Our Criminal Law (Codification and Reform) Act [*Chapter 9:23*] recognises provocation as a **partial** defence to a murder charge in s239 whereby;

“...the person shall be guilty of culpable homicide if, as a result of the provocation-
(a) he or she does not have the intention or realisation referred to in section *forty-seven*;
or
(b) he or she has the intention or realisation referred to in section *forty-seven* but has completely lost his or her self-control, the provocation being sufficient to make a reasonable person in his or her position and circumstances lose his or her self-control”.

The defence, as couched, addresses the subjective element under (a), in terms of what the accused actually intended. It further addresses the objective element under (b), in the sense of loss of control where an ordinary person would have lost such control. When the defence is used in circumstances such as this where an accused has killed his wife due to adultery, the

assumption is that a reasonable person would have behaved likewise hence the justification for a finding of culpable homicide instead of murder.

The accused also relied on diminished responsibility which is provided for in s218 of the Criminal Code. The gist of the provision is that if, at the time of committing a crime, the capacity of a person to appreciate the unlawful nature of their conduct or to act in accordance with that appreciation is affected on account of mental or emotional stress a court can take this into account in imposing a sentence. However, where the acute mental or emotional stress is self-inflicted, then the court may disregard the assertion that responsibility was diminished.

Given that the only witness is dead who could speak conclusively to the fact of provocation apart from the accused who so asserted, the critical issues in this case was therefore whether the state disproved provocation beyond a reasonable doubt or whether this was simply a case of murderous violence.

Legal and Factual Analysis

There was clearly a conflicting version of facts between what the state witnesses said in relation to this matter and the accused's own narrative of the events leading to the fateful killing. The ascertainment of the truth therefore has to emerge from an analysis of the testimonies that were heard by this court. In our view, there was nothing deficit in the evidence of Susan Moyo who told this court that her mother was alive and well on Saturday morning of the 25th of July 2015. Whilst she was nine years old when the fateful events of that day occurred, she was able to tell the court the exact circumstances of how she and her brother had ended up at her grandmother's. There was no reason to discredit her evidence particularly since it was never in contest that the lie that she had told her grandmother about being sent by Stanford Bonde had been one crafted by the accused himself. He had impressed upon her to tell that lie which the accused himself admitted. He, rather than the witness Susan Moyo, is the one who showed the propensity for dishonesty. If there was anyone's evidence to be suspicious of due to the likelihood of lying, it would be that of the accused and not this witness. As a school going child she had the capacity to relate fully well what she remembered of that day when the accused sent them to their grandmother's house. There is equally a shift away from disbelieving the evidence of children. They have largely been shown to be truthful under optimal circumstances. Empirical research has also shown that the cognitive ability of children of

school going age is just as credible and reliable as that of adults especially if obtained under optimal conditions.¹

This court was satisfied that Susan Moyo told the court what she knew. There was no accused to bring undue pressure upon her to lie this time since he has been in custody. Furthermore, counsel for the accused cross examined her respectfully and compassionately in that rare instance where the defence in relation to a witness from the other side, genuinely confines itself to truth seeking. There was observably no casting aside of this purpose, just for the sake of making life unbearable for the witness as is often the case.

Furthermore her evidence that her mother was alive on Saturday the 25th was also corroborated by the admitted evidence of Laina Muzondo, which evidence was not challenged. As stated in a quest to find her missing daughter, she had established that neighbours had last seen her on the 25th of July 2015 which was a Saturday. The accused's evidence that he had found her with Stanford Bonde on the night of Friday the 24th when he returned from Malawi and had killed her for that reason on that Friday night was therefore not true. There was no Stanford Bonde who caused his provocation on the night of the 24th.

We also found Stanford Bonde's evidence to be credible that he had last seen the deceased at church on the 19th of July when she had attended mass. Susan Moyo had also stated as much as regards the last time she had seen Mr Bonde. His evidence that the police had established that the letter purportedly to written to him by the deceased had in fact been written by the accused was also not challenged when he gave this evidence. If that had not been the case one would have expected that his counsel would have spared no prisoners in revealing the truth at the time Mr Bonde was on the witness stand. Moreover we took note of the fact that he had been thoroughly investigated by the police and even detained overnight before being found innocent.

Stanford Bonde was also clear in his evidence that the children's grandmother had told him that the children had come without any spare clothes yet the accused in his evidence crafted a story where the children had packed their clothes before he sent them away. Susan Moyo's evidence was also clear that what the accused had given them was 50 cents to spend on the way to their grandmothers. She did not mention being let into the house to pack any clothes because

¹ See Fiona Raitt *Judging Children's Credibility: Cracks In The Culture of Disbelief or Business As Usual* 744 New Criminal Law Review Vol 13 No.4 Fall 2010 pp 735-758 at p745

that never occurred. He clearly had not wanted them in the house after the fatal scream that Susan had heard on that Saturday morning.

In addition, the admitted evidence of the police officer who attended the scene was to the effect that the search of the room which had been conducted upon discovery of the body had revealed blood stains. No condom was found. There was equally no mention of a stained night dress which the accused says he removed from the deceased when he dressed her in preparation for hospital.

Furthermore, in support of the state case that the deceased had been assaulted by the accused was the post mortem report which was equally unchallenged as evidence and which clearly stated that the deceased had suffered **head trauma due to assault**. For whatever reason the accused assaulted the deceased, it was certainly not because he was provoked by Stanford, because there was no Stanford Bonde at his residence on the 24th of July as he alleged nor on the 25th of July when his wife was last seen alive by her children. This court was satisfied beyond a reasonable doubt that the narratives of the state witness were true in their essential features.

The accused's disposition for truth telling on the other hand was particularly lacking. Right from the onset after committing the murder he put in motion his own version of "how to get away with murder" by crafting a series of lies. He has clearly continued to imagine in his head that if he continues to regurgitate falsehoods they might just become believable. His explanation that he returned to turn himself in was obviously false as he headed nowhere near a police station when he arrived. He had returned because his father had called him to tell him something had happened to his wife. It would have been strange for him not to come as he had crafted a lie that he had been in Malawi all along. The fact that his father had not mentioned that he was at all under suspicion made him believe he had gotten away with murder.

The deceased's account of his wife's infidelity on the night he says he returned from Malawi was also not only strained but was out rightly implausible. He had allegedly simply stared at his wife as Stanford Bonde who had tried to speak to him, put on his clothes before calmly walking out of the house only for the accused to then lose his cool when his wife "tried to explain". It is also implausible that all the anger he then unleashed and his wife's moans and groans from pain would have happened without awakening any of the children whom he said were only a door away. His whole story of dressing the deceased up to take her to hospital was

simply concocted in our view to explain away why she was not found in her night dress, if, as he said, the murder had happened on the night of Friday 24th.

The accused crafted a rosy picture of his marriage to the deceased. It was hard to see why she would have been unfaithful to him if life was as rosy as he depicted. The state evidence having shown conclusively that there was no act of infidelity that the accused stumbled upon as he claimed, this court is only left to join the pieces based on socio-legal research, in order to understand what may have been the trigger for the violence. In Zimbabwe, research has shown that after squabbles about money, jealousy is the second most important cause of violence against women.² It arises from possessiveness and sexual jealousy or challenge to male behaviour.

This court can only surmise that the jealous demon in him got the better of him that day. At most it would appear that the accused may have had his own suspicions in his head about his wife's fidelity since by his own admission he frequently travelled to Malawi. But suspicion alone can never be the basis of using provocation as a defence for fatally killing one's spouse.

In any event, and this is the crucial point, the use of the provocation defence in a situation where a spouse is killed because of adultery would be unlikely to withstand survival under our present Constitution. This is because s 52 which accords the right to personal security, categorically prohibits violence at the hands of both private and public actors.

“52 Right to personal security

Every person has the right to bodily and psychological integrity, which includes the right—
(a) To freedom from all forms of violence from public or **private** sources;” (*My emphasis*)

The crucial import of this provision is that by zeroing in equally on freedom from **all** forms of violence from public as well as private sources, the result is protection from violence within family and domestic spheres as private sources of violence. The Constitution, as the highest law of the land embraces a zero tolerance for violence in all instances as a fundamental human right. It is not negotiable. The domestic sphere happens to be a major source where women in particular encounter the most violence. It would therefore be ludicrous to then allow

² A Armstrong *Culture and Choice: Lessons from Survivors of Gender Violence in Zimbabwe* (Harare, Speciss Print “N” Mail, 1998) at p15

For an understanding of similar reasons of women's vulnerability when they threaten to leave or at the point of separation or thereafter see also Sue Bandalli., *Provocation - A Cautionary Note* 22 J.L. & Soc'y 398 1995 at p 401

a man who kills his wife due to so claimed infidelity-inspired rage, to get away with murder by harnessing the defence of provocation in order to be treated with compassion by reducing that murder to culpable homicide.

Whatever its historical, biblical or evolutionary aspects, the use of the defence of provocation in instances of spousal killing is increasingly seen as flawed³. It is regarded as gender biased and archaic not just because of its proprietary and possessory underpinnings but because it does not stand up to logical scrutiny that the reaction of killing is necessarily that of reasonable person⁴ In fact in our context the claim for adultery damages even though equally archaic in its possessory and proprietary undertones, remains recognised often with aggrieved men and women demanding hefty damages from the perceived wrongdoer. (See *Basil Mukururu v Derick Vori* HH 174/16; *Muhwati v Nyama* 2011 (1) ZLR 634 (H); *Jhamba v Mugwisi* 2010 (1) ZLR 124 (H)). As has been further observed, throughout the world most married couples encounter insults, suspicions, and confessions of infidelity by their spouse and yet only a small number resort to killing.

“Drawing on the work of psychologists, one set of commentators has asserted the fallacy of the notion of loss of control:

Angry impulses do not so overwhelm us to the point that we become enslaved by them. We are endowed with a high level of choice concerning how we act, even in relation to the most provocative forms of conduct. Those who lash out when confronted with a distasteful experience do not respond in this manner because of an absence of a meaningful choice. They do so because they *elect* to do so. ... [T]he desire to ensure that a loved one does not die in pain (resulting in an act of mercy killing) might be just as powerful as the anger stemming from a confession of adultery. The latter should enjoy no special privilege in the law.... [Loss of control requiring that the accused was] 'so subject to passion as to make [them] not master of [their] mind' [is] more akin to a state of automatism than one with the requisite *mens rea* for murder (Neal & Bagaric 2003:247-248)”.⁵

Zimbabwe is a signatory to CEDAW under which its specific obligations under Article 2 are:

³ For a discussion of the evolution of the defence and its problematic context in present times see K.J. Kesselring *No Greater Provocation? Adultery and the Mitigation of Murder in English Law.*, 34 Law & Hist. Rev. 199 2016

⁴ See "Good Practices in Legislation on 'Harmful Practices' against Women," **2009, 19-20.** <http://www.un.org/womenwatch/daw/egm/vaw/legislation/2009/Report%20EGM%20harmful%20practices.pdf>.

⁵ Extracted from Graeme Coss *The Defence of Provocation: An Acrimonious Divorce from Reality* 18 Current Issues Crim. Just. 51 2006-2007 pp 51-78 at pp 52-53

“Article 2

.....

(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

(g) To repeal all national penal provisions which constitute discrimination against women.”

Clearly in so far as the defence of provocation is available as a partial defence in situations of spousal killing for infidelity, the Criminal Code needs to be clarified with a view to harmonising it with the Constitution. The adultery defence for crimes of passion ought to be categorically removed from the ambit of provocation because it increases women vulnerability to violence given that women and not men are predominantly though not exclusively at the receiving end of crimes of passion. In fact the recommendation of the UN Division on the Advancement of women is that both “honour” and adultery be removed as defences for premeditated killings or “crimes of passion”.

Our finding is that the accused killed the deceased not because of any provocation stemming from adultery but because of his own fears inspired by jealousy. In flinging her against the wall and assaulting her as the medical report clearly confirmed, he foresaw that death would result and had proceeded regardless.

We find the accused guilty of murder in terms of s 47(1) (b) of the Criminal Law (Codification and Reform) Act [*Chapter 9:23*].

In mitigation the accused is said to be a first offender and was a breadwinner before the commission of this offence. In aggravation, the state emphasised the lack of regard shown for the sanctity of life. Whilst bearing in mind the need to individualise his sentence, the sentence called for was one that would send a clear message against the tolerance of gender based violence in domestic settings. This was said to be more so in view of the increase of murders taking place in this context.

As this court found, the accused was guilty of reckless murder. There has been a wanton loss of life which has resulted in untold pain for the deceased’s family. The deceased was only 34 years old when her life was cut short at the hands of the accused. There has been no remorse. The children have lost their mother and will have to go through life with the trauma of knowing that she died at the hands of the accused – a man they were supposed to look up to as their role model. Also lost was someone’s daughter, a sister, an aunt and a friend to many. What aggravates their loss is that the accused was a pastor who was supposed to be an example to

others on temperance and virtue. The appropriate sentence in this case which fits the offence and the offender is 20 years.

The accused is accordingly sentenced to 20 years imprisonment.

*National Prosecuting Authority, State's legal Counsel
Matizanadzo and Warhurst, Accused's legal practitioners (Pro deo)*