

THE STATE

Versus

JARZIN MUZHANGIRI

IN THE HIGH COURT OF ZIMBABWE
MOYO J with Assessors Mrs Baye and Mr Matemba
GWERU 18 SEPTEMBER 2023

Criminal Trial

M. Mhene, for the state
L. S. Mapfumo, for the accused

MOYO J:- Accused faces a charge of murder, it being alleged that on the 17th of February 2020, the accused person unlawfully caused the death of Peter Madzivanyika by hitting him with stones on the head and thereby caused his death.

The accused pleaded Not Guilty by reason of insanity. The parties drew a statement of agreed facts that was tendered and marked. It reads as follows:-

- 1) JARZIN MUZHANGIRI (hereinafter called the accused person) was aged 23 years at the time of the commission of the alleged offence. He resides at Kanivhini Village Chief Chireya, Gokwe North in the Midlands Province.
- 2) PETER MADZIVANYIKA (hereinafter referred to as deceased) was aged 50 years old at the time he met his death.
- 3) Accused and deceased were not related but they stay in the same village.
- 4) On the 17th day of February 2020 and at about 1000 hours, the accused proceeded to deceased's residence and placed \$5 bond note serial number AJ 9853807 into a metal cup on a wooden bench in a thatched shed.

- 5) Deceased and Nicholas Vengesai questioned accused about his action since he was not coherent.
- 6) Accused leapt grabbed the deceased on the neck. Deceased was rescued by Nicholas Vengesai.
- 7) Deceased managed to escape and went to Auxillia Vengesai's homestead. Accused followed and threw a large stone at the deceased. The deceased ducked.
- 8) Deceased and Moreblessing Katyavazungu closed the kitchen hut door but accused shook the door until the hinges came off from the door frame.
- 9) Deceased managed to escape and accused in hot pursuit hit deceased with stones several times on the head, when he fall on the ground some 100 metres from Auxillia Vengesai's homestead.
- 10) Deceased did not go to the hospital due to his religious beliefs and died on the 23rd of February 2020.
- 11) Matter was reported to the police leading to the arrest of the accused.
- 12) Deceased's remains were taken to United Bulawayo Hospitals where Dr Juana Rodriguez Gregori conducted a post-mortem examination and the cause of death was:-
 - Encephalic Contusion
 - Skull Bone Fracture
 - Head Trauma
- 13) The accused person was examined by a psychiatrist, Dr Elena Poscotchinova on 03/11/21, 16/11/21, 30/12/1, 23/03/22, 12/06/22, 23/03/23 and 21/06/23 at Mlondolozzi Special Institute.
- 14) Dr Elena Poskotchinova concluded that at the time of the commission of the offence, the accused was mentally disturbed to such an extent that he should not be held legally responsible for his actions.

15. The accused accepts the evidence of the state witnesses and contents of the post-mortem report and at that time of the commission of the alleged offence he was suffering from a mental disorder to such an extent that he should not be held responsible for his actions.
- 16) The state concedes to the fact that the accused was suffering from a mental disorder at the time of the commission of the offence and it is appropriate for the court to return a special verdict of Not Guilty by reason of insanity in terms of section 29(2) of the Mental Health Act Chapter 15:12.

The post-mortem report and psychiatric report already mentioned in the statement of agreed facts were also tendered and duly marked.

From the evidence before this court, it is our finding that the accused person was mentally challenged at the time he committed the offence. He shall however be committed to Mlondolozhi Special Institution. I accordingly make the following order:-

- 1) The accused person is found Not Guilty of murder by reason of insanity.
- 2) The accused is committed to Mlondolozhi Special Institute.

National Prosecuting Authority, state's legal practitioners
Misi and Partners, accused's legal practitioners