THE STATE
versus
LEOBA MUZONDO

HIGH COURT OF ZIMBABWE
MUTEVEDZI J
HARARE, 13 February 2023 and 11 May 2023

Assessors: Mr Chakuvinga
Mr Gweme

Criminal Trial

B Murevanhema, for the State
T.Chakurira, for the accused

MUTEVEDZI J: A MARRIAGE MADE IN HELL! That certainly could be a perfect title for the tragic end to a tumultuous marriage which appeared doomed from the day the accused started showing signs of mental illness. On hindsight the tragedy could have been avoided. When lives are needlessly lost we all have a duty to remind the responsible public institutions of their duties. A stitch in time saves nine. A little education on mental health issues to the general public and relatives of those who live with people suffering from such conditions may be all it takes to prevent calamities.

But before we begin this judgment and in passing we wish to point out that we use language that may appear insensitive to people experiencing different mental health conditions. What is poignant however is that the language is extracted directly from the Mental Health Act [*Chapter 15:12*] (the MHA) and the Criminal Law (Codification and Reform) Act [*Chapter 9:23*] (the Criminal Law Code) both of which govern the defence of mental disorder. Courts cannot circumvent the language used in a statute. If they do the likely outcome is a misinterpretation of the legal provisions. We can only therefore do no more than urge parliament to revise not only these two statutes but a host of others which insinuate discrimination or insensitivity to members of vulnerable groups of our society. Language is dynamic. What may have been previously acceptable can become clearly insensitive in the wink of an eye. It is the reason why words such as *imbecile* or *idiot* which used to be common features of our mental health law were struck down from the statutes. Emily Bulthius, a behavioural health expert criticises the

use of seemingly innocuous words such as mental illness where it is employed as a collective term or descriptions such as "afflicted by mental illness"; "suffers from mental illness"; or "is a victim of mental illness."[1] We use in this judgment, such or similar terms not as a mark of disrespect to those who may be in those circumstances but to convey the true intention of the legislature.

The indictment in this case alleges that on 18 December 2021 at *Madhirihora* Retreat Park, Waterfalls in Harare, Leoba Muzondo (hereinafter the accused) unlawfully and with intent to kill attacked Farai Tsatsa (the deceased) with a metal hoe hitting him on the forehead and chest. The injuries which he sustained were fatal. The background to the charge is that the accused and the deceased were married. They had a domestic misunderstanding. It revolved around the deceased's shoes which the accused appeared to have been holding as a lien on her property allegedly previously damaged by the deceased. The argument later degenerated into a physical brawl. The deceased accused his wife of infidelity and disrespect. She had allegedly given her boyfriend food in his presence. The accused's friend called Cleopatra joined in the argument resulting in further commotion. At some point the deceased and Cleopatra also engaged in a physical fight. It was then that the accused retrieved a metal hoe from underneath the wardrobe and struck the deceased with it. The deceased was allegedly being held by Cleopatra. As already stated, the deceased died from the injuries he sustained.

The accused denied the charge. She pleaded that at the material time she was suffering from a mental disorder which rendered her incapable of appreciating the consequences of her conduct. She said she was diagnosed with a mental disorder called bi-polar sometime in 2017. Since then she had been on treatment and continuous observation by various doctors at Harare Hospital Psychiatric Unit. Her mental condition, she further alleged, caused her to experience severe mood swings which ranged from total calmness to extremely violent behaviour. Her condition is worsened if she is subjected to stressful situations. On many occasions prior to the incident she suffered from auditory hallucinations. During such attacks she would hear voices advising her that the deceased wanted to kill her. As a result, she lived with the fear that one day the deceased was going to attack and kill her. On the day in question she had an altercation with the deceased. When a physical fight broke out between him and her friend the 'voices' once again confronted her in a manner more incessant and louder than before. The voices warned her that the deceased was going to kill both herself and her friend Cleopatra. She felt compelled to fight the deceased to save both their lives. She only realised the consequences of

[1] https://www.healthpartners.com/blog/mental-illnesses-terms-to-use-terms-to-avoid/

her actions much later when the damage had already been done. Against that background, the accused prayed for the court to return a special verdict in terms of s 29 (2) of the MHA.

State Case

The state's case was brief. The prosecutor applied and the court granted the application with the consent of the defence, to have the evidence of various witnesses which was uncontentious admitted in terms of s 314 of the Criminal Procedure and Evidence Act [*Chapter 9:10*] (the CP&E Act). As a result the evidence of witnesses Naume Madenga, Blessed Kanyemba, Kelvin Date, Raymond Nyamvura and Godwill Chakari was formally admitted into evidence as it appeared on the state's summary of evidence. The essence of each of the witnesses' evidence was lost to the court. They all had neither witnessed the assault nor knew anything about the accused's alleged mental illness. All of them had arrived at the scene when the deceased had been killed. There was no contestation about what they testified on.

Once again by consent, the prosecutor sought the production of the accused person's confirmed, warned and cautioned statement. In that statement, the accused essentially repeated what she stated in her defence outline minus the allegation of mental illness. The court duly admitted it. The prosecutor further applied to produce the post mortem report compiled by the pathologist who examined the deceased's remains which once more was uncontested. For purposes of completeness, the results of the post mortem examination indicated that the deceased had died as a result of hemopericadium ruptured posterior left ventricle and left pneumothorax. The murder weapon was equally admitted by consent. It was a metal hoe with a handle about 1.2 metres long, a blade which was triangular in shape, measuring about 10-15 centimetres long and 10 centimetres wide. The hoe's entire weight was about half a kilogram.

Oral evidence was led from a single witness called **Angeline Tsatsa**, a juvenile daughter of the deceased and the accused. She witnessed the murder and described the events leading to the assault in the following terms. The accused and the deceased had a misunderstanding over the deceased's shoes. The accused was holding the shoes as security for payment of compensation for her plastic dish and laundry basket which the deceased had damaged in September 2021. The deceased who from the testimony appeared to have been living separately from the accused had arrived around 1300 hours and demanded his shoes. The accused had taken the shoes to her friend for safe keeping. She promised to go and collect them after she had been given USD $12 as part payment for the property which she valued at USD $14. It therefore meant she was owed only $2. Whilst the accused went to collect the shoes, the deceased went out to look for the balance. Although they arrived separately, they both returned

around 1800 hours. The deceased then demanded to know if his shoes had been brought. The witness answered him but was immediately scolded by the accused. The deceased then went out again and returned when the family was preparing supper. They finished and when they started eating the accused took a pot which contained some food. She went out to give two men who were outside. That did not amuse the deceased who got very angry, picked a stone and feigned a throw at the two men. They both fled. The deceased started shouting at the accused. In turn the accused also got angry and a fight broke out. The witness said she tried to restrain them. At the same time a man called Aaron's father passed by and separated the protagonists. The deceased however head butted the accused. She developed a bulge on the head. They all went outside with the deceased shouting that the fight was over. The accused's friend later arrived and advised that the two men who had earlier fled the premises were waiting for the deceased outside. The deceased picked a quarrel with the accused's friend. He advised her to leave the house because her talk about men was toxic. They pushed each other with the friend threatening to deal with the deceased and threatened that she was not like his wife whom he abused. She picked a dish which was on the table and struck the deceased with it on the head. The accused was standing by the wardrobe. She came running at the deceased and pushed him out of the room. The accused's friend was strangling the deceased. The accused struck the deceased on the forehead with a hoe. She struck him for the second time on the chest and then dropped the hoe to the ground. When she noticed that a crowd had gathered the accused's friend then pretended to call out accused as if to restrain her from further attacking the deceased. The accused was apprehended. The friend fled the scene at that moment. When she was restrained, the accused claimed that the crowd was not aware of the abuse which the deceased subjected her to.

Under cross examination the witness admitted that she knew that the accused had mental health issues. In her own words the accused was mentally disturbed and took medication for it. She advised the court that at one time the accused had attacked and almost injured her. Then, so she said, she was not aware of what was going on. The accused's behaviour vacillated from one extreme to the other. She would at times, shout and cry for no apparent reason yet that could suddenly shift to unexplained happiness and running around the yard. The witness added that at the relevant time the accused had somehow stopped taking her medications. It was the medications which helped to calm her down and control her abnormal behaviour.

Needless to say, this was a young girl who clearly loved both her parents. When her father was attacked and left injured she cried hysterically and sought help for him. Yet she also

perfectly understood the challenges which her accused mother was going through. She appeared to us to have simply told the story as it occurred. Her demeanour in the witness stand was calm and composed. We are sure that the caregivers whom we were told took custody of her and her siblings soon after the murder did a wonderful job in caring and nurturing the children. There was no trace of dishonesty in her narration of events. We conclude so because she did not appear to take anyone's side. She incriminated the deceased where he did wrong but exonerated him where he was right. For instance she told the court that it was the deceased who first attacked the accused and caused the commotion with the two men outside the house resulting in the accused becoming angry. In the same breath she admitted that the deceased had immediately relented and called for a ceasefire which the accused and her friend would have none of. She is a child who obviously knew nothing about the defence of mental disorder. She therefore had no reason to raise the mental disorder issues unless they were a reality that she witnessed her accused mother go through. In fact, she did not raise the issues in her examination in chief but did so under cross examination. That signifies that she may not have even been aware of their importance in the case. We did not and we doubt if anybody would, have anything else other than admiration for her truthfulness.

With the young girl's evidence, the state closed its case.

The defence case

The accused testified in her own defence. She incorporated her defence outline into her evidence. She started her testimony by making a very telling point in that when one is mentally ill he or she wouldn't know that they are mentally ill. During the Easter holidays of 2017, she went to her rural home in Wedza. She stated that when she returned therefrom she was advised that she had fallen mentally sick and that her sisters' in law who included Leona Tsatsa, had taken her to hospital. What she remembers was that she visualised snakes and other objects which she felt wanted to attack and kill her. She also remembered prophesying and being threatened with death all the time. She had come to realise some of her problems when she went through her medical records. Everyone in the family, and by that the accused meant her husband's sisters and the deceased himself, was aware of her medical condition. The hospital she was taken to is Harare hospital. There she saw many doctors and psychologists. They informed her that she had been diagnosed with a condition called bi-polar. She was prescribed a regime of medicines which she mentioned by name to stabilise her. Although the medicines assisted in calming her down they had side effects such as making her hands numb and weak to the extent that she could not even perform her household chores such as doing laundry. The

doctors had no choice but to take her off the medications. She was then put on a drug which she described as sodium valproate. From that time she lived with the condition. She would frequently visit the hospital and narrate her experiences to the doctors. Now and again, she would hear voices which appeared like they came from her neighbours threatening to harm her. The deceased accompanied her to hospital on many of those visits. The doctors kept prescribing different pills to her. Between 2017 and 2020 she was admitted into hospital for treatment on several occasions. She would spend like two days at home and the next three days in hospital. The problem unfortunately did not go away.

Crucially the accused advised us that on the fateful day and at the relevant time she had gone for some time without taking her medicines. She had visited Harare hospital where she was advised that the drugs were out of stock and that she was required to buy them from private sources. When the quarrel with her husband started she said she once again heard the voices which usually haunted her. The voices were that of the deceased threatening to kill her. She saw the deceased's visions and a multitude of his friends in attendance. She believed, when she assaulted the deceased, that she was fighting many people. She did not and could not stop to check who she was fighting with. In her description the assault on the deceased was indiscriminate because she genuinely believed that she was under siege. She advised the court that it was only later after she had been handcuffed and taken to the police station that she calmed down and was advised that the deceased had died from the earlier assault. When she was remanded into the custody of the Zimbabwe Prisons and Correctional Services, she intimated to the officers that she was on medication but did not have the pills. She told the officers the type of pills. They administered the medication on her and she stabilised. She was released on bail some two or so months later. She immediately visited Harare hospital where she saw Doctor Dube who recommended an increase in the dosage of the medicines because given the stressful conditions the accused was going through there was a real danger that she could relapse.

As of now, the accused said she feels perfectly fine. She has not suffered any relapse and collects her medication from Harare hospital regularly when it is available. She survives on cooking sadza for resale and stays at the same place where she used to stay with the deceased. She assured the court that there is no danger of her relapsing because as long as she takes her medication her condition remains normal.

During cross examination, the prosecutor's line of questioning started from the premises that the accused had not advised the police that she had defaulted to take her

medication and that she did not mention to them the issue of her mental illness. The accused's response to that was clear. The police officers who arrested her were all from a police station where her mental history was well documented. She and the deceased had been to the station on countless times pursuant to domestic fights. On all of the occasions the deceased would tell the police to release her without charge because of her mental illness. She therefore did not find it necessary to explain to them these issues in detail. When she mentioned it, the officers accused her of seeking to hide behind the mental illness to evade the charge of murder. She said she did not recall seeing the investigation officer let alone giving a statement to him. She simply did not appreciate it. Quizzed on that her statement had been confirmed by a magistrate but that in it she had not raised the issue of mental illness, the accused repeated that she had but her story had been dismissed for the reasons earlier stated. The accused withstood the prosecutor's examination and explained that the events of the day must have put her under a lot of pressure resulting in her snapping and going into a frenzied attack on the deceased.

Christopher Njanjeni

He is a psychiatrist nurse practitioner in the employ of the ZPCS for the past 31 years. He holds an Msc degree in Nursing Sciences with a major in psychiatry obtained from the University of Zimbabwe in 2017. He also holds a Certificate in Psychiatry and a Diploma in Mental Health and Psychiatry both obtained from Ingutsheni Psychiatry Hospital in 1987 and 2010 respectively. He advised the court that he had, in the course of his duties, examined and assessed the accused at Chikurubi Psychiatric Unit. He compiled a report to that effect which was tendered as exhibit D1. In the report he detailed that the accused suffered from mental illness which started in 2017. During such episodes of illness she would experience auditory and visual hallucinations which were so frightening to her that she would imagine that there were people who wanted to attack and harm her. These in medical terms are called paranoid delusions. He added that the accused had previously been treated for a condition called bipolar. In his conclusion, he indicated that the accused appeared to be suffering from a mental illness at the time of commission of the offence and could not have been properly responsible for her actions. He explained to the court that a bipolar diagnosis means that a patient has mood disorder. That disorder on one extreme end, consists of excitement commonly called mania. A patient experiencing mania would think that they are everything and that they are in control of the world. On the other extreme the patient experiences depression. In that mood the patient feels worthless in life. The mood creates persecutorial delusions resulting in a patient feeling like he/she is about to be sentenced to death. The accused in this instance was diagnosed with

that condition. She was prescribed to take a drug called sodium valproate and can function well as long as she takes it. He made the conclusions from his own assessment of the accused, her history and the medical records which she brought into prison. He added that a bipolar patient may not appreciate the consequences of his/her conduct or whether the conduct is acceptable or not. Crucially he stated that a patient may not know that he or she has a mental illness until they are treated. He also added that mental patients who are on treatment are considered stable and not recovered. The word recovered is barely used in psychiatry medicine because mental illness is hardly treatable. It can only be suppressed. He maintained this under cross examination and indicated that most diseases of the mind can be regarded as permanent. When the patient is under treatment they become stable and can do everything that normal people do. The danger is that there is always a chance to relapse and make unusual decisions. In this case, so he stated, the accused is a chronic patient who has been in and out of hospital. The fact that the accused could recall what transpired on the day in question was immaterial. The important issue is whether or not the accused could control her decision. She could not as illustrated by the fact that she did not have any good reason why she killed her husband.

Michelle Farirai Mukonoweshuro

She is a psychiatry expert. She holds Bachelor of Medicine and Bachelor of Surgery degrees from the University of Zimbabwe obtained in 2006. She also holds an MSc in Psychiatry Medicine obtained from the same university in 2014. She is a psychiatrist doctor at Sally Mugabe Hospital formerly called Harare Hospital. The accused person is her patient. She assessed her on 23 January 2023. She made conclusions after that assessment based on the accused's history and her medical notes. Those notes consisted of booklets with extensive notes by various other doctors who had previously attended to the accused over the years. Her own assessment and that history left her in no doubt that the accused was mentally disordered at the time that she committed the crime. In one of the booklets it is indicated that the accused was admitted into hospital following unexplainable violent behaviour. A psychiatrist diagnosed her and initiated treatment. She supported the evidence by Chritopher Njanjeni that some mental patients do not remember what they would have done but others do. That however is immaterial. What matters is the reasoning behind it.

Counsel for the accused then proceeded to apply to tender a bunch of medical notes relating to accused's history of mental illness, her admissions into hospital and the medication which doctors prescribed her to take. The bunch became exhibit D3. The doctor concluded her testimony by restating what she said in her medical affidavit which the court accepted as exhibit

D2 that in her opinion, the accused was mentally disordered at the time that she allegedly committed the offence. Nothing material came out of the prosecutor's cross examination of the witness except the admission by the doctor that she had not done her examination of the accused's state of mind at the time of the commission of the offence. She however argued that in psychiatry it is usual to carry out a retrospective examination.

The issue

The only issue which lies for the court's determination is whether or not the accused was mentally disordered at the time of the murder of the deceased to entitle her to a special verdict in terms of s 29(2) of the MHA.

The law

In recent times this court has extensively dealt with the law which governs the defence of mental disorder at the time of commission of a crime. As this court noted in the case of *The State v Emelda Marazani* HH 192/23 the defence of mental disorder at the time of commission of the offence is not materially different from the common law defence of insanity. Both had their origin from the so-called McNaughton Rules. Currently the defence is grounded upon *s* 29 of the Mental Health Act [*Chapter 15:12*] (the MHA) which explains the procedure a court must follow and Part V of the Criminal Law Code which creates the defence. Part V is couched in the following terms;

> **"PART V**
> MENTAL DISORDER
> **226 Interpretation in Part V of Chapter XIV**
> In this Part–
> "mental disorder or defect" means mental illness, arrested or incomplete development of mind, psycho-pathic disorder or any other disorder or disability of the mind.
>
> **227 Mental disorder at time of commission of crime**
> (1) The fact that a person charged with a crime was suffering from a mental disorder or defect when the person did or omitted to do anything which is an essential element of the crime charged shall be a complete defence to the charge if the mental disorder or defect made him or her–
> (*a*) incapable of appreciating the nature of his or her conduct, or that his or her conduct was unlawful, or both; or
> (*b*) incapable, notwithstanding that he or she appreciated the nature of his or her conduct, or that his or her conduct was unlawful, or both, of acting in accordance with such an appreciation.
> (2) For the purposes of subsection (1), the cause and duration of the mental disorder or defect shall be immaterial.
> (3) Subsection (1) shall not apply to a mental disorder or defect which is neither permanent nor long-lasting, suffered by a person as a result of voluntary intoxication as defined in section *two hundred and nine-teen*."

It is clear from the above that there are two requirements to the defence. They are alternatives to each other. Where an accused satisfies one or both of the requirements his/her defence succeeds. I arrive at that concussion because of the legislature's intentional use of the disjunctive word *or* in separating the requirements. The prerequisites are that:

a. The accused must have lacked appreciation of the nature of his/her conduct or that the conduct was unlawful or both; or
b. If he/she had the necessary appreciation, it must be shown that he/she failed to act in accordance with such appreciation

The phrase *mentally disordered or intellectually handicapped* is defined under s 2 of the MHA. The meaning which parliament ascribed to it is that "*the person is suffering from mental illness, arrested or incomplete development of mind, psychopathic disorder or any other disorder or disability of the mind.* The same meaning is found under s 226 of the Criminal Law Code. What is undoubted is that it must be shown that the accused had some form of mental decrepitude which affected his/her discernment of the essence and attributes of his or her actions or to proceed in terms of such discernment. Any other argument around the accused's actions which doesn't relate to an infirmity of the mind does not and cannot meet the requirements as stated above. I restate here that the desideratum is that the disease which the accused is suffering from must be pathologic. There is no requirement for the perpetuity of the condition. I am vindicated in that regard by s 227(3) of the Criminal Law Code. The nature of the defence flows from the presumption that everyone is presumed sane until proven otherwise. It therefore places on the accused the onus to prove on a balance of probabilities that he/she was mentally disordered at the material time. The difficulties attendant upon that route are acknowledged but it remains the law. The accused cannot escape the responsibility to at the very minimum lay a foundation of his /her mental illness. That foundation must always be laid with s 29(2) of the MHA in mind. That provision requires the judge or magistrate presiding over the trial to be satisfied from evidence which shall include medical evidence that when the accused acted he/she was mentally disordered or intellectually handicapped. The requirement for medical evidence is derived from the simple understanding that psychiatry may be a subject whose workings are beyond the court's ordinary knowledge. The medical experts with a deeper understanding of mental illnesses may therefore become handy in assisting the court as long as the court appreciates that it cannot abdicate its duty to make a decision on whether or not the accused person in the particular circumstances suffered from a disease of the mind which

prevented him/her from appreciating the nature and quality of his actions or to act in accordance with that appreciation. The court must at the end of it all assess both the factual and medical evidence available to it.

Application of the law to the facts

There is no argument that the accused has a fairly long history of mental illness. Both the factual evidence as presented by the couple's daughter and by the accused herself shows that she suffered from mental illness. The problem first manifested in 2017. She at one stage went into that frenzy and attacked Angeline the first state witness in this case. There were numerous fights between the deceased and the accused which ended with the intervention of the police. The accused was never arrested because the deceased would always intercede on her behalf and advise the police of her mental challenges. The deceased accompanied the accused to hospital on countless times for either treatment, admission into hospital or to collect her drugs. The deceased's relatives particularly his sisters one of whom is called Leona were aware of the accused's medical condition. They too assisted her to seek medical help and treatment at some stage. Ill-advisedly, the deceased's relatives at some stage took to encouraging him to desert the marriage and relocate to South Africa. He tried but it did not help. The accused became stressed and relapsed into a worse state. The deceased himself returned home possibly succumbing to the irresistible pull of love. Such efforts appeared to have been futile because they were not the panacea for mental illness. The appropriate remedies abound in the MHA. They are found in both Part II (ss 4-25) which deals with civil reception orders and Part III (ss 26-36) which has provisions relating to mentally ill persons in conflict with the law.

Further, when she was arrested the accused took with her to prison, the medical reports which spoke to her condition. The prosecutor did not do anything to controvert all the above evidence. He did not need to because we think he perfectly understood that the duty of a prosecutor is not to secure a conviction at all costs. That evidence was undeniable.

As is required by the law, the accused adduced medical evidence to support her contention that she was mentally disordered at the relevant time. First, there is extensive medical records which show that the accused was diagnosed with a condition called bipolar in 2017. Its effects on the mind of a person were explained by both psychiatry experts who testified in court. Put simply it is a mood swinging disorder which causes a person's frame of mind to swing from a high extreme to a low extreme. As described by the experts a patient suffering from bipolar can experience an entire range of feelings in a single episode. They can

be manic in one moment and be completely depressed in the other. Importantly there is expert testimony that once diagnosed with bipolar a patient is never cured. He or she can only be stabilised with medication which suppresses the illness. It follows therefore that if it is agreed, as it should, that the accused was a bipolar patient, the prosecutor's contention that she was mentally sound at the time of commission of the offence becomes unsound. The first state witness conceded, in fact she stated because she had at no time argued otherwise, that the accused at the relevant time had defaulted taking her medications. The disease she suffered from required a continuous intake of the prescribed drugs to suppress it. In addition she was subjected by the deceased and others around her to conditions which were so stressful that even a person without her condition could have easily snapped. There was a big and unnecessary brawl at her house. That had been preceded by prolonged arguments about issues which ranged from her damaged property, the deceased's demand for his shoes to allegations of infidelity. In our view therefore a combination of two of the biggest drivers of a relapse of a bipolar patient (default of medication and stressful conditions) were present in this case. They were no doubt a recipe for a catastrophe.

What makes the medical evidence before us particularly compelling is that it is different from instances where an accused who is perfectly normal commits an offence and for the first time seeks medical intervention to enable him/her to rely on the defence of mental disorder. In such a case, the evidence of psychiatry experts may be less persuasive because the court must be on guard against a number of dangers. First, because the assessment is a once off event there is the real risk of a misdiagnosis. Second, the subject of psychiatry is not an exact science. It is therefore possible for the experts to be swayed by the heat of criminal charges surrounding the examination. Whether the patient is mentally ill or not is literally a matter of life or death. In contra distinction, where a patient seeks medical intervention and the diagnosis is carried out over a long period the results are likely to be more accurate. The consequences of a finding that the patient is not mentally disturbed have no major ramifications on the patient. In this instance, the accused first sought treatment in 2017. As already indicated, since then several doctors have attended to her. All of them, so we are told, were in agreement that she is a bipolar patient. She has been admitted into hospital for treatment of that disorder on many occasions. She still takes medication for the same problem. In our view, it is beyond doubt that she has been unwell ever since the problem became noticeable in 2017. She could not have been responsible for her actions on 18 December 2021 when the unfortunate incident occurred.

It is against the above background that we are satisfied that the accused person successfully discharged on a balance of probabilities, the onus on her to show that she could not appreciate the nature and quality or the unlawfulness of her assault of the deceased on 18 December 2021. As such the prosecution did not succeed in proving its case against the accused beyond reasonable doubt. **Accordingly the accused is found not guilty because of insanity**.

We have considered that the accused has been out on bail since the time that she committed this offence. There are no reports that she exhibited any signs of being a danger to society. Both the experts who testified indicated that her condition at the moment is stable and that as long as she takes her medication the chances of relapsing are minimised. It is on the basis of that expert advice that we invoke the provisions of s 29 (2) (c) of the MHA and order that the accused be discharged.

National Prosecuting Authority, for the state
Zimudzi and Associates, accused's legal practitioners