



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION PRETORIA

CASE NO: CC82/2019

- (1) REPORTABLE: YES/NO
(2) OF INTEREST TO OTHERS JUDGES: YES/NO
(3) REVISED

15 MARCH 2021
DATE

SIGNATURE

In the matter between:

THE STATE

VS

COLLINS LUCKY MADUANE

Accused

JUDGMENT: SENTENCE

Bam J:

1. To impose the most appropriate sentence is a difficult task.
2. The accused was convicted of the murder of Florah Maubane, committed on 3 March 1999. It seems that the accused, although apparently arrested at some time after the murder, the case against him was subsequently withdrawn. It follows that, after 19 years, the long arm of the law got hold of him, and justice is seen to be done.
3. The purposes of sentence are retribution (that is the punishment itself), deterrence, rehabilitation, and prevention.

4. The State, represented by Adv Ngobeni, contended that Section 51(1) of The Minimum Sentences Act 108 of 1997, providing for a minimum sentence of life imprisonment, is applicable in that the murder was premeditated. (The indictment was amended accordingly.) Adv Fisher-Klein submitted that the murder was not pre-meditated, and that the minimum sentence of life imprisonment is not applicable.
5. When it is taken into account that the deceased cried out, two or three times that night, probably in order to call for help, that she probably resisted the accused's evil intentions, and that the accused proceeded nevertheless to kill her by strangling her, justiy the inference that the murder was indeed premeditated as contended by Adv Ngobeni.
6. It follows that, in accordance with the provisions of Sec 51(1) of the said Act, the Court shall impose life imprisonment, unless the court finds that substantial and compelling circumstances exist justifying a lesser sentence, the Court shall impose a lesser sentence. In any event, this court has inherent jurisdiction to impose life imprisonment in appropriate circumstances.
7. In order to decide what the most appropriate sentence would be, the court has to take into consideration the nature and extent of the crime, the personal circumstances of the accused, and the interests of the community. The interests of the community includes a victim impact consideration; in cases of violent crimes, like murder, it means the court must take into account what impact the crime had on the family of the victim. In matters of a very serious nature, it is of importance to take into account that the personal circumstances of the accused necessarily recede into the background.
8. Murder of women in our society is rife. Despite severe sentences imposed by our courts, murder of women is rapidly on the increase. This increase was even noticeable long before 1999. Campaigns against violence against women are the order of the day. There is a public outcry and the issue is apparently debated even in parliament. The authorities are at loss how and in what way this evil should be contained. It does not seem that any effort by interested instances and organisations have any effect at all. The community keeps on suffering.
9. The accused was not prepared to admit in court to what he did to Florah and why he killed her. At all relevant times the accused endeavoured to get away with murder. He succeeded for about 19 years. It seems that the accused was driven by some or other supernatural experience, (he said to the witnesses that he was haunted by Florah's spirit), to confess. But, even then, he took steps to avoid the police interfering. It is not clear what the accused wanted to achieve when he made the confession, and even pointed out the places where he disposed of Florah's body parts. On the probabilities it was an attempt to absolve himself or clear his conscience. This conduct of the accused, however, has no

mitigating effect at all in that the accused showed no remorse, and that he, even after conviction, testified that he was falsely implicated by his sister, Cynthia.

10. The accused's personal circumstances are as follows: He has several relevant previous convictions. He, amongst others, admitted to three attempted murder convictions after the killing of Florah. At the time of his arrest he was gainfully employed and lived with his mother. He is not married. He has three Technicon qualifications. He has health conditions in that his gall bladder and one kidney had been removed.
11. The aggravating circumstances are overwhelming. For about 19 years the family of Florah did not know what exactly happened to her, although the accused was suspected to have killed her. Even at present the family cannot pay the last respects to Florah as her body has never been found. The continuous suffering of the family must be devastating.
12. Florah was a young student, with full life expectations. She was surely defenceless when she was killed. The accused showed no respect to her when he attacked and strangled her, and even after having kept Florah's corpse in his room for three days so that it started decomposing, he also mutilated, burned and buried her remains. The accused's conduct was absolutely gruesome.
13. There are no substantial and compelling circumstances justifying a lesser sentence than the prescribed minimum of life imprisonment.
14. Even if this court were to be wrong in finding that the murder was pre-meditated, the court would, in any event, have imposed life imprisonment as the most appropriate sentence in the circumstances.

The accused is sentenced to life imprisonment.



AJ BAM

JUDGE OF THE HIGH COURT

DATE OF HEARING	: 22 FEBRUARY TO 03 MARCH 2021
DATE OF SENTENCE	: 03 MARCH 2021
DATE OF WRITTEN REASONS FOR SENTENCE	: 15 March 2021

APPEARANCES:

For The State	: Advocate SD Ngobeni
For the Accused	: Advocate SF Fisher-Klein