

IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE HIGH COURT, CAPE TOWN)

CASE NO:

SS194/03

DATE:

27 October 2003

5 In the matter between:

THE STATE

and

LUPELO MANINA

10

SENTENCE

VAN DER WESTHUIZEN, AJ

Mr Manina you have been found guilty of the crime of rape,
15 your victim an 18 year old girl at the time, who was in grade 11
at school, was the ex-girlfriend of your co-perpetrator, the man
who has been referred to in the trial as Price. The
complainant was well known to you, as well as Price, who was
your friend.

20

Now I accept on the night in question that when they arrived
there that they indeed sought from you refuge in the sense of
finding a place to sleep that night and that played a role in the
following finding, that you did not plan an attack on the
25 complainant at all.

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I will accept in your favour that your judgment was clouded by the effect of smoking dagga, Mandrax and drinking liquor that night, but most certainly not to the extent that it exculpates you or diminishes the gravity of what you had done in a meaningful way. You certainly did not cause the complainant serious injury, and you certainly didn't play a leading role in the attack on the complainant.

10 I take into account that at 28 having passed standard 6 and with a clean record that you are not a bad sort of guy at all. I take into account that you have got one child, I believe she is 13 years old, whom you have supported and who is now being supported by your father. I also accept that but for an attack
15 by a mob in which you lost your arm and your eye you would have continued in your employment with Market Toyota, and that up to the time of your incarceration your only income was a disability grant.

20 Now the way society views the crime of rape must have been brought home to you by now, it is indeed regarded as a very serious offence. From the viewpoint of the complainant you must understand that it is not a plain and simple and forgotten sexual encounter. Mentally it is a brutal attack on her
25 personality, her sense of wellbeing and her integrity, which

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causes her untold misery and anxiety, and you must understand that it is not only the physical effects of the attack, but the mental effects of the attack that needs to be considered in passing sentence. You must also understand
5 that in the days when women were regarded as less equal than men has now long since passed. Women are the equal of men in the eyes of the law and should also be the equals of men in the eyes of all levels of society. And what you and your friend have done is to seriously infringe one of the basic tenets of
10 our constitution where everybody is equal, men and women, all alike. We simply cannot tolerate men who treat women as lesser beings to do with whatever they please, such as what you and your friend Price has done.

15 Not a day goes by that there is not a case emanating from areas of Khayalitsha and Gugulethu that end up in this court with these kind of offences having to be adjudicated upon. This kind of offence and the general misbehaviour towards women is something that abhors the Court, and it should abhor
20 every level of society. It is no wonder that the legislature decreed that the appropriate sentence in a case such as this where you and a friend, Price, carried out your attack on this poor defenceless woman needs to be sentenced very heavily with life imprisonment. However the legislature in its wisdom
25 decreed that if the Court were to find substantial and
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compelling circumstances that justify a lesser sentence the Court would be right to note that on the record, and then sentence you accordingly to a lesser term of imprisonment than a life sentence.

5

Now none of the factors which your counsel, Ms Abrahams had mentioned individually merit a finding of substantial and compelling circumstances. Taken cumulatively however you are fortunate that I have come to the conclusion that all these factors that I have mentioned earlier, taken cumulatively does merit the finding of substantial and compelling circumstances and counsel for the State, Mr Wolmarans was correct in making that concession.

15 In the circumstances Mr Manina I SENTENCE YOU TO A PERIOD OF 18 (EIGHTEEN) YEARS IMPRISONMENT.

However I will add to that the order that after a lapse of a period of 8 (eight) years, the prison authorities will be granted the power to determine whether or not your sentence should be converted to correctional supervision. I have taken this in view of the fact that you are a disabled man, and the fact that you have passed standard 6 and may well be able in the next eight years to qualify yourself to pass grade 12, if you were to apply yourself. So if you behave yourself, and you cure yourself of your addiction to drugs, Mandrax and dagga,

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/ds

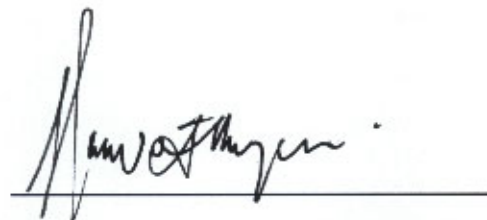
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because I believe that is sometimes obtainable in prison, and you satisfy the prison authorities that you are proper rehabilitative material it may well happen that after eight years they convert your sentence to correctional supervision. If you
5 do not satisfy their requirements this means that you will be in prison for the full eighteen years.

I urge you to make the best of this opportunity.

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A handwritten signature in black ink, appearing to read 'A.J. van der Westhuizen', is written over a horizontal line.

VAN DER WESTHUIZEN, AJ