

THE STATE

Versus

LOICE MAHLAMVANA

And

CHENJERAI ZHOU

And

TAWONGANEI SHOKO

IN THE HIGH COURT OF ZIMBABWE
MAKONESE J with Assessors Mr Matemba and Ms Baye
GWERU 5, 6 & 7 FEBRUARY 2020

Criminal Trial

M. Shumba for the state

K. Shonai for 1st accused

Miss T. Chidyemakono for 2nd accused

Mrs D. Shirichena-Chivunze for 3rd accused

MAKONESE J: The accused persons have been arraigned in this court facing one count of murder. It is alleged that on 29th November 2017 at Nyikinya Village, Chief Maziofa, Mberengwa, the 1st accused acting in concert with 2nd accused and 3rd accused murdered the deceased Munakishe Chinyoka, a male adult aged 42 years at the time of his death. The state alleges that accused persons blindfolded the deceased before striking him all over the body using a wooden hoe handle before setting him alight with petrol. Whereafter, the accused persons carted the deceased in a wheelbarrow, tied him with stones on the legs and chest before dumping him into Mupandashango Dam in order to conceal the offence. On the 5th December 2017 the body of the deceased was discovered floating in the dam. On 10th December 2017 Makesure Chinyoka positively identified the remains as those of the deceased.

Accused persons pleaded not guilty to the charge. They aver that they have been falsely implicated and wrongly accused. The state tendered into the record, a state outline detailing the

summary of the evidence that was to be led at trial. It shall not be necessary to repeat the entire contents of the outline of the state case. It now forms part of the record. The evidence of the underlisted witnesses as it appears in the summary of the state case was admitted into the record by way of formal admissions in terms of section 314 of the Criminal Procedure and Evidence Act (Chapter 9:07) namely:

- (a) Vusumuzi Siringwani
- (b) Constable Nyoka
- (c) Dr S. Pesanai
- (d) Makesure Chinyoka

It is the state case that 1st accused was the brains behind the murder. She had previously complained to 2nd accused and 3rd accused that the deceased, who was her boyfriend was giving her problems and was in the habit of coming home late and drunk, banging windows. 1st Accused hired her co- accused persons to assault and murder the deceased. The state alleges that the three accused persons acted in concert and in common purpose.

Accused one is a female adult who was aged 39 years at the time of the alleged offence. She resides at Nyikinya Village, Mberengwa under Chief Maziofa. The deceased was her lover. He was aged 42 years at the time of his demise. He was an artisanal miner. In her defence outline accused one stated the following:

“.....”

1. On 29th November 2017, she never saw the deceased, neither did she see the 2nd and 3rd accused persons, immediately before during or after the alleged murder.
2. She denies ever procuring the services of the 2nd and 3rd accused persons for the purposes of murdering the deceased person and will put the state to the proof thereof.
3. In any event, the 1st accused will put the state to the strictest proof regarding the identity of the deceased.

4. Whereof 1st accused prays for her acquittal on the charge of murder or any other competent charge.”

It will be noted that accused one gave what can best be described as a bare denial. She was content to put the state to the strict proof of the allegations.

Accused two is a male adult residing at Muzondiwa Village, Chief Muziofa, Mberengwa. At the time of the alleged offence he was aged 37 years. He is an artisanal minor. He was very close to the deceased and they worked together in a mining syndicate. In his defence outline he denied committing the offence. He put the state to the strict proof of its allegations. He stated that on the day in question he was at his homestead and never met accused one and accused three. He did not visit 1st accused’s place of residence on the date this offence was committed. 2nd accused gave a bare denial to the allegations and also put in issue the identity of the deceased.

3rd accused tendered his defence outline denying the allegations. He resides at Choko Village, under Chief Maziofa, Mberengwa. He is also an artisanal miner. He denied visiting 1st accused’s homestead on the day of the murder. He gave a very brief defence outline and was content to put the state to the proof of its allegations.

The state produced 1st accused’s confirmed warned and cautioned statement. The statement was recorded on the 22nd of March 2018. It was confirmed by a magistrate at Mberengwa on 26th April 2018. The statement is in the following terms:

"I do not admit the allegations being levelled against me because I only requested Chenjerai Zhou and Tawonganei Shoko just to warn the now deceased to desist from his behaviour only, since he was causing problems at my home coming home drunk and making noise by banging my windows and door. Tawonganei Shoko and Chenjerai Zhou came to my house without any appointment and they started assaulting the now deceased using a wooden hoe handle whilst he was sleeping in my house, but I wanted them to caution him. They went out with the now deceased and I do not know where they took him to. After a while, Chenjerai Zhou came back to me and requested for petrol saying that he wanted to look for transport to carry the now deceased to hospital since he was failing to breath and I gave him 2 litres of petrol only which I was using for the generator. On the following day, the two notified me that he had died and they had thrown him into the dam. They then requested \$200 from me as payment, but I refused since we had not agreed to kill him that. They cautioned me that if I tell anyone about the issue I would also be convicted. However, the deceased was my boyfriend in his lifetime and I did not want him to die in such a manner."

2nd accused's confirmed warned and cautioned state was then tendered into evidence. It was recorded on the 5th February 2018. The statement was confirmed by a magistrate at Mberengwa on the 1st March 2018. The English translation of this statement is in the following terms:

"I do admit to the allegations of murdering the now deceased, however I did not have any intentions of murdering him. I only wanted to discipline him. I assaulted him on the legs using a hoe handle belonging to Tawonganei Shoko in Loice Mahlamvana's house whom he was in a relationship with when he was still alive. Tawonganei Shoko was holding him by the throat whilst I was assaulting him on the legs. Loice Mahlamvana had informed me that the now deceased was giving her problems by coming to her house whilst drunk and being violent and striking his doors and windows. After assaulting him we took him to a nearby bush in Loice Mahlamvana's wheelbarrow, however, we discovered that he was having difficulties in breathing so we decided to take him to Mapandashango Dam so that we could throw him in the water. I then returned to Loice Mahlamvana's place and requested for some petrol so that we would burn his body and she only gave me two litres. Upon arrival at the dam, we then removed deceased's clothes and poured some petrol on his body. However, the body did not burn in full. We then removed some tree fibres from the bush and we tied the legs and his hands and we then tied the stones in the deceased's body so that his body would sink in the water. We burnt the deceased's clothes and cellphone to ashes and threw the property together with the body in the water. We threw away the empty container of petrol and the hoe handle in the bush and then took the wheelbarrow and went back to Loice Mahlamvana's homestead. On the following morning we then alerted Loice Mahlamvana that we had killed Munakisishe Chinyoka, however, it was not intentional. She shouted to me saying that we had done something evil to the extent of killing the deceased. She later gave us US\$100 saying that cash is very scarce these days." (emphasis added)

3rd accused's confirmed warned and cautioned statement was also tendered into the record. The statement was recorded on the 5th February 2018. It was duly confirmed by a magistrate on 1st March 2018 at Mberengwa. The English version of the statement is in the following terms:

"I do admit the allegations of murder being levelled against me, but I had no such intentions. I just wanted to discipline the now deceased since he was causing problems at Loice Mahlamvana's homestead by coming home drunk and making noise by striking windows and doors. I blindfolded the deceased and grabbed him by the chest whilst Chenjerai Zhou used my wooden hoe handle to strike him on the legs. After assaulting the now deceased we dragged him outside and carried him with Loice Mahlamvana's wheelbarrow to a nearby bush to leave him there, but we noted that he was now failing to breathe properly. We decided to carry him to Mapandashango Dam and threw him into the water as a way of concealing him. Before proceeding to the dam, I remained with the deceased as Chenjerai Zhou went back to Loice Mahlamvana's place to request some petrol from her to burn the now deceased and she gave him about 2 litres. When we reached at the dam we removed the clothes of the now deceased and poured petrol all over his body and set him on fire but his body did not burn completely. We obtained some tree buck fibres from a nearby tree and tied his legs and the hands of the now deceased as well as attaching 3 stones on his body which we meant to drown him in water. We also burnt his clothes and a cell phone to ashes and we threw them into the water together with the now deceased and everything sank. We threw away the empty container and the hoe handle and we took the wheelbarrow back home. On the following day, I told Loice Mahlamvana that we had mistakenly killed Munakasishe Chinyoka and she blamed us for that. However she gave us US\$100 saying that cash was very scarce these days." (emphasis added)

A post mortem report compiled by Dr S. Pesanai at United Bulawayo Hospitals at the request of Zimbabwe Republic Police Zvishavane was tendered into the record. After examining the remains of the deceased, the pathologist concluded that the cause of death was unascertained due to the advanced state of decomposition. The post mortem report was filed under report number 1181/1180/170.

The physical exhibits tendered into the record are a wheelbarrow and a red floral blanket. The blanket was used to blindfold the deceased before and during the attack. The state led oral testimony from three witnesses. The first to testify was **PETER CHIWAWA**. He is a duly attested member of CID Zimbabwe. He has been in the police service for 24 years. He is known to the accused persons in connection with this offence. He attended the scene after the recovery of the body of the deceased from Mupandashongo Dam. He observed that the deceased's intestines were protruding and there were visible burns all over the deceased's body, particularly on the face, hands and the chest area. He noticed that the legs were tied together with some bark fibre and stones were placed around the body. The body was not immediately identified. On 20th December

2017 the witness ferried the body to Bulawayo for a post mortem examination. The evidence of this witness was clear and straightforward. The witness was not contradicted in any material respects under cross examination. We accept the evidence of the witness as an accurate reflection of his observations.

The second state witness was **SIHLUPEKILE CHINYOKA**. The deceased was her brother. She was known to all the accused persons before the commission of the offence. She was aware that at the time of his tragic death, the deceased was in a love relationship with the 1st accused. She knew 2nd accused as her uncle. The deceased was very close to the 2nd accused. The witness testified that deceased and 2nd accused were in a mining syndicate. They worked very closely and she was pained that 2nd second accused was involved in the murder of her brother. The witness spoke with some emotion. The witness indicated that she knew 3rd accused as an uncle. It appears this was not a blood relationship but that there were close family ties between the witness's family and 3rd accused. The witness indicated that she had last seen her brother alive sometime in November 2017. Towards the end of that same month she was alerted by relatives that the deceased had gone missing. She tried to call the deceased but his mobile phone was not reachable. She sent a whatsapp messages to 1st accused greeting her and she responded. When she sent a message requesting to speak to the deceased, the 1st accused immediately stopped communicating with her. Further attempts to contact 1st accused were futile as her phone became unreachable. The witness became worried. She visited the deceased's last place of aboard. She found deceased's belongings and some of his work related tools inside the house. The witness suspected something terrible could have happened to the deceased. She filed a missing person report at Mataga Police. A few days later the witness received a phone call from **Detective Sergeant Mapako** a CID detective who asked her to meet him at 1st accused's residence. Upon arrival at 1st accused's homestead the witness found 2nd and 3rd accused persons in handcuffs. The witness testified that accused persons were making certain indications at 1st accused's residence. 1st accused admitted to the police that she had been asleep when accused 2nd and 3rd accused persons entered her house. She had deliberately not locked the door as they had made a prior arrangement that the accused persons (two and three) would come and enter the house and assault the deceased. The witness stated that 1st accused indicated the place where the deceased had been

lying on the floor when the attack took place. 1st accused stated that a blanket that had been used to cover the deceased as he was being attacked. It was a red floral blanket. When asked to explain the 1st accused's role the witness narrated that accused one had said as the attack took place she hid behind a curtain inside the room. The witness explained that 2nd accused made indications on how he assaulted the deceased all over the body with a hoe handle. 2nd accused indicated that deceased was assaulted indiscriminately and that at one stage deceased pleaded that they should just leave him as they had already injured him. The witness indicated that as the indications were being made by 2nd accused she started screaming. The police details told her that she was disturbing the indications and that she should calm down. As regards 3rd accused, the witness narrated that he had indicated how he had kicked the door open before proceeding to blindfold the deceased. The witness stated that 3rd accused stated that the deceased was assaulted up to a stage where he was completely immobilized. The deceased was covered with a blanket and placed in a wheelbarrow.

The witness further testified that after indications had been made at 1st accused's residence, the police were led by the accused persons to a dam. As they proceeded to the dam they travelled aboard a truck that had been hired by the police for the purposes of indications. The accused persons, the witness, Detective Sergeant Mapako, the witness' elder sister and Peter Tapera were seated at the back of the truck. As they drove towards Mupandashongo Dam, the driver was being directed by 2nd and 3rd accused persons. At a certain point the truck was stopped. 2nd accused indicated a Mtundo tree where he stated that that was the place where the deceased gave his last breath. 2nd accused was leading the way. The witness, accused persons and the police then walked on foot towards the dam. They walked in single file. 2nd accused walked in front. Behind him was Sergeant Mapako, followed by 3rd accused. Sergeant Nyoka was behind 3rd accused and the witness walked behind Sergeant Nyoka. 1st accused followed closely behind, then Peter Tapera and the accused's eldest sister were behind everyone else. Indications were made by 2nd accused at the Mtundo tree where they took tree bark used in tying deceased's legs. Accused persons then led the police to the dam and made indications regarding the exact place where the body was tossed into the dam.

This witness was subjected to extensive and lengthy cross examination by defence counsel for the accused. The witness was not shaken and maintained her version of events. Inspite of the emotion that characterised her evidence, the court found her evidence to be consistent and credible. In many respects her evidence corroborated the events as outlined in accused two and three's confirmed warned and cautioned statements. We did not find any reason to disbelieve the witness. We accept her evidence as a true reflection of her observations when indications were being made at the scene by accused persons.

The last state witness to give *viva voce* evidence was **JOHN MAPAKO**. He is a Detective Sergeant is the Zimbabwe Republic Police. He has been in the police service for 14 years. He was the Investigating Officer in this case. He took the accused persons for indications. There was some confusion on whether the accused made such indications on the 2nd or 3rd of February 2018. That much does not in any way affect the substance of the evidence given by this witness. The accused persons do not dispute that this witness recorded the warned and cautioned statements that are now in the record. It is not in dispute that the witness took the accused persons to 1st accused's place of residence where certain indications were made by accused persons. The witness was led by the accused persons to the dam where the body of the deceased had been dumped. The witness narrated that the accused persons were properly warned and cautioned before the recording of the statements. The accused persons were then taken to court for confirmation of these statements by a magistrate. The nature of the warning and cautioning that preceeded the indications is apparent from a perusal of the Indication Forms which bear these words:

I hereby make these indications and statements of my free will. I have been told that I need not indicate or say anything unless I wish to do so and that anything I say or do or indicate will be taken down in writing and may be used as evidence.” (my emphasis)

All the accused persons signed and endorsed the warning and cautioning before making indications. The witness was taken to task by accused's defence counsel who alleged that the confessions and indications had been extracted through the use of undue influence, assault and threats. The witness indicated that no force was brought to bear upon the accused persons and that they made their indications freely and voluntarily. In this regard, I need to point out that Sergeant

Mapako's version regarding the indications is corroborated in material respects by **SIHLUPEKILE CHINYOKA** who told the court that as they went about their indications, the accused persons were free and that 3rd accused was even asking for cigarettes from others.

It is the view of this court that this witness gave his evidence well. He was not contradicted in material respects under cross examination. Inspite of the robust questioning he was composed and gave his evidence truthfully. We accept his testimony as credible and reliable.

Defence Case

The 1st accused **LOICE MAHLAMVANA**, elected to give evidence under oath. She maintained her innocence. She averred that the confirmed warned and cautioned statement was made under duress. She was assaulted and threatened with death. She was made to make indications and was told what to say and what to point at. She knew nothing about the murder of the deceased. She asserted that her relationship with the deceased was rosy and rejected the idea that her relationship was on the rocks. The difficulty with the 1st accused's defence is that she chose to give a bare denial to the allegations in her defence outline. The warned and cautioned statements were confirmed in terms of section 113 of the Criminal Procedure & Evidence Act (Chapter 9:07). These statements were admitted into the record by consent. The statements are essentially confessions. In her statement to the police the accused denied that she had hired her co- accused persons to murder the deceased. She stated instead, that she only wanted them to caution him. That version is not corroborated by the indications she made at the scene of the crime in the presence of **SIHLUPEKILE CHINYOKA**. At the indications she told the police that she had left the door unlocked to enable 2nd accused and 3rd accused to gain entry into the house. She said as deceased was being assaulted she was hiding behind a curtain. If the accused was not acting in common purpose with her co-accused she ought to have restrained them from killing the deceased. The accused does not explain how and why she gave 2 litres of petrol to her co-accused. The accused does not explain why she gave her co-accused the wheelbarrow that was used to ferry the deceased to the dam. Critically, the blanket used to blindfold the deceased just before the attack was also used to cover the injured deceased as he was carried to the dam. In all this, the

accused cannot expect this court to believe her version of events. Her conduct is consistent with one who was well aware of the plan to kill the deceased. The deceased was a nuisance to her. She requested 2nd and 3rd accused to assist her in getting rid of her problem. She did not dissociate herself from the conduct of her co-accused. If anything she was the brains behind the assault and murder of her boyfriend whom he claims she loved so much.

We have no hesitation in rejecting the accused's evidence as false. Her testimony is designed to mislead the court. Her demeanor in the witness stand was poor. She avoided several questions. She cannot be believed.

2nd accused **CHENJERAI ZHOU**, gave evidence under oath. His defence outline was a bare denial. Accused put everything in issue including the identity of the deceased. The court shall not dwell much on the identity of the deceased. The evidence of **MAKESURE CHINYOKA** settled the issue of the identity of the deceased. His evidence was admitted by way of formal admissions as it appears in the outline of the state case. In brief the evidence of **MAKESURE CHINYOKA** is to the effect that he is a younger brother to the deceased. On the 29th November 2017 the deceased went missing. On the 5th of December 2017 a dead body was discovered floating in Mupandashango Dam. On 10th December 2017 he was invited by the police to identify the body at Zvishavane Hospital District Mortuary. Makesure Chinyoka positively identified the remains as being those of the deceased.

2nd accused sought to distance himself from the confirmed warned and cautioned statement. He could not explain why the statement he gave to the police contained intimate and minute details which could only be known by persons who had participated in the commission of the crime. His assertion that what was contained in the statement was dictated to him by the recording detail does not make sense at all. There is no way the police would have known about the following details in his statement;

- (a) That there was a Mtondo tree near a dam.
- (b) That a wheelbarrow was used to convey the body of the deceased from accused 1's house to the dam.

- (c) That a red floral blanket was used to cover the deceased when he was being assaulted.
- (d) That the deceased's body was burnt before being dumped into a dam.

The nature of the details in the accused's confirmed warned and cautioned statement could only have come from the accused himself. His allegations of duress only came as an afterthought. Such allegations were never raised in the accused's defence outline. A defence outline is prepared after a legal practitioner has taken full instructions from a person accused of committing an offence. The defence outline is prepared in terms of section 188 (b) of the Criminal Procedure and Evidence Act. It is expected that where an accused alleges that he was forced to make a statement, such a critical issue should be raised at the first instance when the outline of his defence is being tendered. Where an accused raises allegations of duress relating to a confirmed warned and cautioned statement, late in the proceedings, the court is justified in viewing the allegations of duress as a mere afterthought and an attempt to build a defence as the case progresses. Throughout his defence, 2nd accused's was a bare denial. He failed to give any explanation that could be considered to be reasonably, possibly true. Evidence was led to the effect that 2nd accused led the way at indications. He first made indications at 1st accused's house. He then led the police to the dam. That evidence was never challenged by accused's legal counsel. The court makes a finding that the accused gave a false defence. He failed to answer several questions. He was a person who very close to the deceased. They worked together in a mining syndicate when the deceased went missing. He was not seen to be concerned at all. Close relatives asked him about the deceased's whereabouts and he pretended to be in the dark. We have no hesitation in rejecting the accused's defence as false.

3rd accused, **TAWONGANEI SHOKO** was the last to give evidence under oath. Essentially his defence was also a bare denial. He like his co-accused alleged that the warned and cautioned statement had been obtained through duress. The allegation came late in the trial. It was never raised in accused's defence outline. The indications were made following a warning and caution made and acknowledged by the accused in writing. Accused's legal counsel sought to argue that the wording in the Indication Forms did not include the phrase "*made in accused's sober senses*" and that this rendered the warning insufficient. It is clear that the words used in the

warning were sufficient to warn the accused not to make indications if he was not free to do so. The fact that accused persons signed the Indication Form shows that they were in their sober senses. If they were not, they would have simply declined to sign these forms. 3rd accused could have simply declined to participate in the indications if he was not free to do so. Evidence was led from **SIHLUPEKILE CHINYOKA** to the effect that 3rd accused was so free on their way to the dam that he was even asking for cigarettes. This detail is important as it reflects the mood that prevailed during the indications. The evidence was not challenged at all and this court accepts that the indications were made freely and voluntarily without any undue inference.

If one were to ask what 3rd accused defence is to this charge, one would observe that a bare denial was proffered in the outline of the defence case. As the case progressed and evidence was being led, the accused attempted to build a defence which centered around disputing the warned and cautioned statement and the evidence of indications. There can be no doubt that the accused persons conspired to cook up a defence in the hope that the state would fail to present evidence in court linking them to the offence. As with the 2nd accused person, the details in 3rd accused's warned and confirmed statement could only have come from the accused himself who had the intimate and precise details on what transpired. We reject the proposition that 3rd accused was falsely implicated. 3rd accused was found to be an untruthful witness who did not answer questions directly and was evasive.

The law on confessions

In the case of *S v Colgate Duffen Mudenda* HB-86-12 the law regarding the admissibility of confessions was discussed at length. In that case the court cited the following cases; *Ndlovu & Anor v The State* SC-136-05; *S v Tsorayi* 1985 (1) ZLR 138.

In brief the law provides in section 256 of the Criminal Procedure and Evidence Act (Chapter 9:07) that an accused person may be convicted of an offence on the evidence of confession if the confession is confirmed in material respects or the offence is proved by evidence other than such confession to have beneficially committed.

The evidence of **SIHLUPEKILE CHINYOKA** is evidence independent of the confessions. She introduced evidence that directly placed the accused persons at the scene. She made averments regarding information voluntarily given by the accused persons at the scene. Her testimony was unchallenged. The confession in the warned and cautioned statement is not the same evidence as the testimony given by an independent witness who comes well after the commission of the offence. In her evidence **SIHLUPEKILE** narrated exactly how the accused defined their roles in the murder. This evidence corroborated the confessions and the indications. In my view this is evidence *aliunde*.

It has been suggested that 1st accused should only be found guilty of culpable homicide. It has been argued that her role was peripheral. To the contrary, 1st accused was the coordinator of the attack and murder. She provided the opportunity for the attack on the unsuspecting deceased. She provided the following tools in furtherance of the criminal enterprise;

- (1) A wheelbarrow to ferry the deceased
- (2) A red floral blanket to cover the deceased
- (3) Petrol to burn the body
- (4) The house to mount the surprise and deadly attack upon the deceased
- (5) Cash to the co-accused in the sum of US \$100 after the disposal of the body

1st accused was clearly an accomplice and co-perpetrator. See ;*Enock Ncube & Anor v The State* SC-58-14. All the accused persons acted in common purpose on that fateful night. Each accused person played a specific role in the murder of the deceased.

In the result, and for the foregoing, we are satisfied that the state has proved its case against all the accused persons beyond reasonable doubt.

Accordingly, accused persons are found guilty of murder with actual intent.

Reasons for sentence

The accused persons have been convicted of a most heinous murder. The accused acting in concert and in common purpose assaulted he deceased with a wooden hoe handle until he became totally immobile. The accused decided to burn the remains of the deceased in order to conceal the crime. 1st accused provided her co-accused with 2 litres of petrol. Deceased's body was set alight. Having realised that the body was not burnt completely, the accused hatched a plan to dump the body in a dam. Before dumping the body the accused persons tied the deceased's legs together and placed three heavy stones around the deceased's chest and legs to ensure that the body would sink in the water. The deceased's body was tossed into the dam and immediately sank. A few days later the floating body of the deceased was discovered in the dam. Investigations led to the arrest of the accused persons.

In assessing an appropriate sentence the court is enjoined to take into proper consideration all the mitigating features of the case. The court shall take into account that the accused persons have spent 2 years in remand prison pending trial. They have thus served a portion of their sentence. The accused persons are all first offenders. Evidence has been led that accused persons paid 2 beasts each to the relatives of the deceased. 1st accused is a female first offender who has a child aged 16 years. The sentence this court shall impose shall negatively impact the child. It is the view of this court that 1st accused confessed in her warned and cautioned statement that she did not wish the deceased to die in such a brutal manner. There is evidence that at an early stage, the 1st accused regretted her conduct. The moral blameworthiness of the 1st accused is high. She did not restrain the co-accused persons from injuring the deceased. She provided her co-accused with the means for the disposal of the body. The sentence she shall receive must reflect that she is a female first offender who committed a very serious crime. As regards 2nd and 3rd accused persons, their conduct in killing the deceased in the manner they did is most despicable. To assault and injure a person and then burn his body is a sign of inherent wickedness. The dumping of the body in the dam in order to conceal evidence was most cruel and heartless. I must hasten to add that accused persons did not exhibit any remorse or contrition throughout the trial. This court must impose a sentence that is fair to the accused persons and that will meet the ends of justice.

In the result and for the foregoing reasons, the accused persons are sentenced as follows:

1. Accused one is sentenced to 25 years imprisonment.
2. Accused two is sentenced to 35 years imprisonment.
3. Accused three is sentenced to 35 years imprisonment.

National Prosecuting Authority, state's legal practitioners

Nyabawa Legal Practice, 1st accused's legal practitioners

Mutendi, Mudisi & Shumba Legal Practitioners, 2nd accused's legal practitioners

Shirichena-Chivunze Legal Practitioners, 3rd accused's legal practitioners