

THE STATE
versus
PRETTY MATUNGA

HIGH COURT OF ZIMBABWE
BHUNU J
HARARE, 2 April 2012, 5 April 2012 and 22 May 2012 and 25 January 2013.

Assessors: 1. Mr. Mhandu
2. Mr. Mutambira

C. Chimbari, for the State.
Ms O. Babiri, for the Defence.

BHUNU J: The accused a known psychiatric patient struck and killed her now deceased grandson on 18 December 2010. Her brother in law one Claudious Manomano who has known the accused for more than 30 years confirmed without any contradiction that she is a known psychiatric patient.

There are no factual disputes in this case. It is common cause that the accused became mentally ill sometime in 2002. She was treated for her mental condition at Parirenyatwa Psychiatric Hospital.

She was subsequently placed on medication and released on instructions to take the medication for life. She however defaulted in taking the medicine under the mistaken belief that she had recovered from her illness. As a result of the default she relapsed and killed her grandson while mentally disordered.

Her defective mental status was confirmed and graphically presented by Dr. C Njanjike as follows:

“A known mental patient who defaulted her treatment and had a psychotic episode. She is now diagnosed as a temporal lobe epileptic patient following an abnormal EEG report. She is no stable and no psychopathology at present. Now stable on carbamazepine 200mg...”

She now stands charged with murder as defined in s 47 of the Criminal Law (Codification and Reform) Act [*Cap. 9:23*] There can be no doubt whatsoever that the accused struck and killed the deceased while suffering under a disease of the mind.

Section 29 (2) of the mental health Act regulates the criminal liability of persons who commit a crime while labouring under a disease of the mind. It provides that:

“If a judge or magistrate presiding over a criminal trial is satisfied from evidence, including medical evidence, given at the trial that the accused person did the act constituting the offence charged or any other offence of which he may be convicted on the charge, but that when he did the act he was mentally disordered or intellectually handicapped so as not to be responsible for the act, the judge or magistrate shall return a special verdict to the effect that the accused person is not guilty because of insanity.”

Having regard to the undisputed evidence before this Court, I can only find it as a fact proved beyond reasonable doubt that the accused was suffering from a disease of the mind so as not to be responsible at law for her conduct at the time she struck and killed the deceased.

In the circumstances the Court has no option but to return a special verdict. The accused is accordingly found not guilty because of insanity.

The Attorney General's Office, the State's legal practitioners.
Chimbune & Associates, The Defence's legal practitioners.