

IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

CONFIRMATION CASE NO. 1016 OF 1997

REPUBLIC

VERSUS

STEVEN NTHUMBULA

In the Second Grade Magistrate Court sitting at Mulanje
Criminal Case No. 387 of 1997

CORAM: MWAUNGULU, J.

Manyungwa, Principal State advocates, for the State

Defendant, absent, unrepresented

Ngwata, the Official Interpreter

Mkhuna, the Recording Officer

MWAUNGULU, J

JUDGMENT

This case was set down to consider the sentence. The Second Grade Magistrate at Mulanje convicted the defendant, Steven Nthumbula, of the offence of arson, an offence under section 337(a) of the Penal Code. The Second Grade Magistrate sentenced the defendant to two years imprisonments with hard labor. It is this sentence which the judge criticizes.

The crime comes from a romance. The complainant did not want the defendant to marry her daughter. On the day of the night before the house was set on fire, the defendant warned the complainant that because of her refusal to let the defendant marry her daughter, something was going to happen that night. The complainant was in the house that night when the defendant set

the house on fire. The defendant admitted the offence at the police just as he pleaded guilty when he appeared before the court below.

The defendant is not here. I cannot make an order averse to him. Anyway I think that the sentence is justified on the reasons that the court below gave and others. The serious side to this offence is that when the house was set on fire, the complainant was inside the house. There was no injury to anyone. Although the value of the house is put as K15, zero in the charge, there is no evidence of its value on the record. Even if that value is accepted, there is no evidence of the extent of the damage to the house. The remarks in **Republic V. Chitseko**, (1997) Conf. Cas. No. 78, are appropriate:

“The natures of the offence and the circumstances in which it was committed are so critical a consideration, although this is the defendant’s first offence. Arson is a serious offence. It is punishable with life imprisonment. Arson under our law involves a conflagration to different properties. Setting a dwelling house must be regarded as one of the most serious instances of the crime. While as the value of the dwelling house and the extent of the damage may weigh considerably, just setting a dwelling house on fire is in itself grave enough as to call for longer and immediate imprisonment.”

The most important consideration here is that the defendant pleaded guilty to the offence. A plea of guilty saves court’s time, space and expense. Such pleas should be encouraged. The way to do that is to afford defendants a meaningful reduction in the possible sentence. This court has suggested a reduction of up to a third (**Republic v Khembo**, (1994) Cr. App. No. 90). In the face of this plea and the other factors I have mentioned, the sentence cannot be criticized. It was appropriate. It is confirmed.

Made in open court this 27th Day of March 1998

D.F. Mwaungulu

JUDGE