



**IN THE HIGH COURT OF MALAWI**

**PRINCIPAL REGISTRY**

**MISCELLANEOUS CRIMINAL APPLICATION 3 OF 2008**

**THE REPUBLIC**

**VERSUS**

**CHARLES CHALUNDA, JOSEPH NATHANIEL, SAIDI IMPHANI  
AND BUSHIRI BANDA BUNAYA**

**CORAM: THE HONOURABLE JUSTICE E. B. TWEA**

Absent, Counsel for the State

Nkuna, of Counsel for the 1<sup>st</sup> accused

Present in person all respondent

Mrs S. P. Moyo – Official Interpreter

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**SENTENCE**

**Twea, J**

The four convicts appeared before the Principal Resident Magistrate Blantyre on 5<sup>th</sup> July 2007 on a charge containing two counts of robbery contrary to Section 301 of the Penal Code. They all pleaded not guilty to the charges. However, after a full trial the court found them guilty and convicted them. The court however, declined to proceed to sentence and committed them to the High Court for sentence under Section 14(5) of this Criminal Procedure and Evidence Code.

From the facts on record the accused persons in the first count were Joseph Nathaniel, Saidi Imphani and Bushiri Banda Bunaya. On the 21<sup>st</sup> April 2007, they held up the Western Union office in down town Blantyre and robbed it of K1, 000, 000.00. They were armed with dangerous weapons.

The evidence had it that two of the accused persons made a preliminary survey of the officers pretending to be bona fide customers. They came back later with a gun. They held up the officers and clients. Drove the clients into a toilet and robbed the offices. The brandishing of the gun was, of course, accompanied by verbal threats.

On the second count which was committed on 24<sup>th</sup> May, 2007, the accused persons were Charles Chalunda, Joseph Nathaniel and Saidi Imphani. They helped Simms Electrics shop in Central Blantyre business area and robbed it of a laptop computer, a cellphone and K600, 000 cash. It is on record that the gun was in fact discharged in the course of the robbery.

This case comes before me for sentencing. I noted that Joseph Nathaniel and Saidi Imphani were involved in both robberies. Bushili Banda Buyana was involved on the first count only. Charles Chalunda was involved on the second count only.

This Court takes into account that all the accused persons are relatively young people, being below 30 years of age. Apart from Bushili Banda Buyana, who is serving another sentence, the rest are first offenders. They have been in custody since their arrest in June 2007. I will take this into account.

Be this as it may, this is a serious offence. The accused persons were operating a gang to undertake criminal enterprise. They did surveillance on money handling institutions or operations. These offences were premeditated. They possessed and carried dangerous weapons, to wit guns and in fact had the audacity to discharge the gun during the criminal operations. These are dangerous criminals. Further there has been a high prevalence of such offences in the City of Blantyre.

The lower court would have had in mind the Sentencing Guidelines which stipulates the starting point as 10 years. The magistrate contemplated a sentence higher than what is in the guidelines. I do agree with him.

The gangsters must not, when caught, be given the impression that court condones the havoc they cause to the lives of citizens. We are all entitled to live in peace and so do business without let or hindrance from criminal minded persons. Weapons and guns must be reserved for their proper use and not for depriving citizens of their property or causing harm to their

person. The courts must make it clear that such conduct will not be condoned.

I therefore sentence the accused persons to 15 years imprisonment on the first count. I sentence them to 18 years imprisonment on the second count. In respect of the accused involved on both counts the sentences will run concurrently.

They have the right to appeal against the sentences.

*Pronounced in Open Court* this 28<sup>th</sup> February, 2008 at Blantyre.

E. B. Twea  
**JUDGE**