



IN THE HIGH COURT OF MALAWI  
CRIMINAL DIVISION LILONGWE REGISTRY  
SITTING AT DEDZA  
CRIMINAL CASE NO. 71 OF 2018

BETWEEN:

THE STATE  
-v-  
ZAKISONI LIGOMEKA

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CORAM: HON. JUSTICE Dr. C.J. KACHALE, *Judge*  
*E. Ndingo*, Senior State Advocate for the State  
*Namasala*, of Counsel for the Defence  
*Namagonya*, Court Reporter  
*Zulu*, Court Clerk and Official Interpreter

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SENTENCE

When *Zakisoni Ligomeka* married *Eletina Banda* the lady had a child (*Mayankho Chimwemwe*) from another marriage. On 17<sup>th</sup> April 2013 *Eletina Banda* went to hospital with her other child and left *Mayankho* in the care of his step-father. Upon her return home *Eletina* found *Mayankho*, who was only 3 years old, in a bucket of water. *Zakisoni* suggested that the child had accidentally fallen headlong into the bucket; however a post mortem examination concluded that in fact death was caused by strangulation. When he was arrested *Zakisoni Ligomeka* confessed to have strangled the child; his reason was that he used to be jealous of *Mayankho* because his mother-in-law only used to bring clothes for him and not for his child with *Eletina*. Curiously, *Zakisoni* acknowledged in his confession that

the clothes were in fact bought by the child's biological father and sent through *Eletina's* mother.

At his trial on a charge of manslaughter *Zakisoni Ligomeka* admitted the allegation and the court must now determine the appropriate sentence for his crime. It has been argued on his behalf by defence counsel that since he is a youthful first time offender who has pleaded guilty the court must be lenient in sentencing him. The court has thus been urged to adopt a reformatory and not retributive approach in considering the appropriate sanction. Defence counsel has also disclosed that prior to his release on bail the offender had spent 4 years and 6 months in pre-trial detention which must be accounted for in these proceedings.

The state, on the other hand, has been keen to remind the court of sheer barbarity of the offender's conduct; as such it has been submitted that he might not be eligible for any leniency in sentencing.

The approach adopted by this court in assessing the suitable sentence may best be summarized in the words of *Mwaungulu, J* (as he then was) in **Phiri and others-v-Rep** [1998] MLR 307 at 317 that '*some crimes...are so heinous that a plea of youth, a plea that the crime was a first offence or that the offender had not been to prison before were of little relevance.*' While those sentiments arose within a robbery charge, the soundness of the underlying principle is quite universal in its application: as a matter of justice some actions of necessity disqualify one from any considerations of mercy or leniency at sentencing.

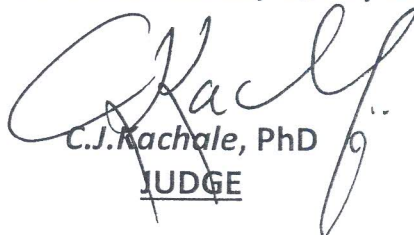
Thus considering the fact that *Zakisoni Ligomeka* could plan and carry out such an unprovoked killing on a vulnerable child in whose care the mother had placed him leaves one no justifiable room for exercising leniency towards such an offender. As a step father he completely betrayed the trust reposed in him for the welfare and safety of the little child. To hear that such dastardly action was motivated by *Zakisoni's* irresponsible expectation of assistance from a man who was once married to his wife is rather incomprehensible. This is a man whose conduct evokes the strongest sense of disapproval for displaying the most heinous criminality whose benefit can neither be fathomed nor even contemplated.

Therefore, the sentence which this court would like to impose is calculated to underscore the gravity of *Zakisoni's* rather unprecedented depravity and irresponsibility. The pleas of lenience from his defence counsel are, to say the least, quite baffling in the estimation of this court. Whereas no length of incarceration would ever restore the lost life of little *Mayankho Chimwemwe*, there is a duty upon this court to ensure that its proposed sanction reflects the inestimable heinousness evidenced by the present killing.

A parent (whether biological or otherwise) who would expose his ward to such unprovoked criminality deserves the sternest sanction which the court could lawfully impose. In saying this, the court would like to acknowledge that the maximum penalty for manslaughter is life imprisonment: in all the prevailing circumstances herein, **this court will condemn you *Zakisoni Ligomeka* to 30 years imprisonment with hard labour effective from 22<sup>nd</sup> May 2018**, the date of conviction. The sentence might have been higher if not for the period spent in custody prior to your release on bail previously.

Order accordingly.

Made in open court this.....<sup>14<sup>th</sup></sup> day of <sup>August</sup> ~~July~~ 2018 at Dedza.

  
C.J. Kachale, PhD  
JUDGE