



IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

CRIMINAL DIVISION

CONFIRMATION CASE NO. 868 OF 2021

(Being Criminal Case No. 1006 of 2021 before the Senior Resident Magistrate Court sitting at Blantyre)

THE REPUBLIC

V

SAMUEL POFERA

Coram: Justice Vikochi Chima

Ms Kumwenda, Senior State Advocate

Mrs Kasambara, Senior Legal Aid Advocate

Mrs Moyo, Court Clerk

ORDER IN CONFIRMATION

Chima J

Samuel Pofera was, after a full trial, convicted of aggravated robbery contrary to section 301 of the Penal Code. He was sentenced to four years' imprisonment with hard labour. The convict and three others who are still at large on 21 October 2021 at Blantyre Post Office stole a cellphone, samoosa and K15, 000 cash from the complainant. On this particular day, the complainant had been selling samoosa within town. Later in the day, he went to Blantyre Post Office to look for a motor cycle that would take him home. When he got to Blantyre Post Office, he met four men. Two of these held him by the neck and throat; another searched his pockets and took away his K15, 000. He tried to resist but one of the assailants produced a screw driver and stabbed him on both of his arms and also on the chest. He was made to lie down. The robbers tried to steal his phone but fortunately, a passerby intervened. The complainant was rescued and his phone was retrieved.

Section 301 of the Penal Code states:

'(1) Any person who commits the felony of robbery shall be liable to imprisonment for fourteen years.

(2) If the offender is armed with any dangerous or offensive weapon or instrument, or is in company with one or more other person or persons, or if, at or immediately before or immediately after the time of the robbery, he wounds, beats, strikes, or uses any other personal violence to any person, he shall be liable to be punished with death, or with imprisonment for life.' (emphasis supplied)

The robbers stabbed the complainant with a screwdriver on both arms and the chest. The court below commented on the appearance of the wounds since it had the opportunity to look at them and it stated, simply, 'that they did not look good'. They held him by the throat. They were more than one—they were four. They stole K15, 000 from him which has not been recovered. The amount of money stolen is very little but very valuable to a samosa seller. It is very unfair that while the complainant was busy trying to earn a living by selling samosas that the convict was just idle and thought he could just be taking away easy money from those who had worked hard for it. The convict was even one of the customers of this samosa seller but never learnt a lesson of hard work but rather thought take away the little his colleague was trying to make. He thus needs to learn the lesson some other way. Even in the face of the convict being young and a first offender, the sentence of four years' imprisonment with hard labour is inadequate considering the aggravating factors cited. I thus set it aside and sentence the convict to nine years' imprisonment with hard labour.

Made in open court this day the 26th of April 2022


Chima J