

REPORTABLE

IN THE HIGH COURT OF SOUTH AFRICA

(EASTERN CAPE LOCAL DIVISION, PORT ELIZABETH)

In the matter between:

Case No: CC 6/2016

THE STATE

And

NDUMISO BOOI

Accused No. 2

MZOLIMO MAKISI

Accused No. 3

MAWETHU KHAKA

Accused No. 4

Coram: **Chetty J**

Heard: **22 September 2016**

Delivered: **22 September 2016**

SENTENCE

Chetty J:

Introduction

[1] The offences for which the accused have been convicted attract the statutorily imposed sentences pursuant to the provisions of s 51 of the ***Criminal Law Amendment Act***¹ absent a finding that there are substantial and compelling circumstances which militate against its imposition. In the main judgment I found that accused no. 2 robbed Dr Odufuwa and the deceased of their possessions. When it became evident to him that she had pointed him out at an identification parade, he set in motion a diabolical plan to murder her and for that purpose procured the services of accused no's 3 and 4 to execute her, a classic case of an assassination. This is an offence which the legislature has singled out as one for which imprisonment for life is an appropriate punishment.

[2] The personal circumstances of the accused which have been outlined and which I have taken into account pale into insignificance when viewed against the prism of the aggravating circumstances. The deceased was murdered because she had the temerity to identify her robber. Given the factual matrix, counsel were constrained to concede that their personal circumstances do not pass muster to be considered as sufficiently mitigating to ward off the ordained sentence. The nature of this offence, its premeditativeness and its modus operandi imperatively

¹ Act 105 of 1997

call for the prescribed sentence. In the result therefore the accused are sentenced as follows:-

Accused No. 2

- Count 1 - 15 years imprisonment;
- Count 2 - 7 years imprisonment;
- Count 3 - 1 years imprisonment;
- Count 5 - Life imprisonment

Accused No. 3

- Count 5 - Life imprisonment;
- Count 6 - 7 years imprisonment;
- Count 7 - 1 years imprisonment

Accused No. 4

- Count 5 - Life imprisonment;
- Count 6 - 7 years imprisonment;
- Count 7 - 1 years imprisonment

D. CHETTY

JUDGE OF THE HIGH COURT

Obo the State:

Adv M. Stander

NDPP, Wool Trust Building, North End, Port Elizabeth

(012) 842 1455

Obo Accused 2:

Adv R. Crompton

Obo Accused 3:

Adv C. Van Rooyen

Instructed by:

Port Elizabeth Justice Centre, North End,

Port Elizabeth

(041) 408 2800

Obo Accused 4:

Mr Z. Ngqeza

(Private Instruction)