

HIV+ woman guilty of infecting husband

by: Michek Rusere I RNW

AN agricultural extension officer who was recently found guilty on charges of deliberately infecting her husband with the HIV virus by a Bulawayo magistrate is now challenging the conviction at the Supreme Court.

Samukeliso Mlilo (34) was charged based on the controversial section 79 of the Zimbabwean Criminal Law Act.

Mlilo had no legal representative in the initial stages of her trial. But she was relieved when Lizwe Jamela, a renowned human rights lawyer with the Zimbabwe Lawyers for Human Rights (ZLHR) took her case.

He managed to take the matter to the Supreme Court before Mlilo was sentenced. He argues that the law is unconstitutional and discriminates against people living with HIV/AIDS.

“The basis [for the supreme court appeal] is mainly to deal with the constitutionality of section 79 of the Criminal Law Act,” says Jamela.

The law states that the deliberate transmission of HIV is a crime. Fair enough, says Jamela. But he has an issue with the fact that the law doesn't take into consideration on one hand whether actual infection happened or not and secondly, in Mlilo's case, with the proof of who infected who.

Human rights activist Tinashe Mundawarara says Mlilo is one of the several individuals in the country who have been victims of a law which is supposed to be protecting them.

He says the vagueness of section 79 is such that even those who are HIV-negative can be charged and be prosecuted for transmitting the virus.

Jamela argues that section 79 of the code is too vague and broad so as to allow for arbitrary arrests and prosecution of people in contravention with the law.

“The section tends to be over reaching and too broad to an extent that it's not clear as to what constitutes criminal conduct,” he says as part of his basis for appealing to the Supreme Court.

He also adds that no provision is made in the law about finding out who infected who arguing it is very often left to the imagination and speculation.

In Mlilo's case, both her and her husband had had previous affairs before getting together.

Jamela says Mlilo only discovered that she was HIV positive upon seeking antenatal care after falling pregnant while living with her husband. As part of the country's health

policy, HIV testing is compulsory for all pregnant women.

Mlilo added that her and her husband had already lived a year together before the pregnancy. She further states in her defence that she disclosed her status to her husband who even assisted her to get medication.

“So who infected who?” says Mundawarara. The reason of the court case baffles him because the couple stayed for so long together and had consented to having sex since they got married.

But the million-dollar question is how the magistrate managed to be convinced that Mlilo, who pleaded not guilty, actually transmitted the virus to her husband and not the other way round. Let alone why she is sitting in the accused box.

Story from : NEWZIMBABWE.COM NEWS:

Published On: Monday, July 30, 2012 11:31 AM GMT

<http://www.newzimbabwe.com/news/news.aspx?newsID=8636>

© New Zimbabwe News