

Could have

THE STAR WEDNESDAY 14th NOVEMBER '72 led to death

TERRORIST

FIVE

YEARS

EACH

Pretoria Bureau

MOHAMED SALIM ESSOP (22),
Yousuf Hassan Essack (22), Indh-
rasen Moodley (27) and Amina
Desai (51) were today each sen-
tenced to five years' imprisonment
following their conviction on a
charge under the Terrorism Act.

Mr Justice Snyman passed sentence on the three Indian men and a woman in the Palace of Justice. He gave them the minimum sentence.

The judge said he did not want to be understood to be depriving Moodley or anyone else of their right to agitate for the peaceful change of laws which cause grievance.

The four were found guilty of conspiring with Mr Ahmed Timol, the former detainee who died last year, and/or the banned South African Communist Party (SACP), and/or the gross (ANC), to promote the cause and policies of the organisations. Their intention, the judge said, was the violent overthrow of the system of government in South Africa.

Painful

Turning to Indhrasen Moodley, the judge said that to sentence a man with such a good record and high standing in this community, was "particularly painful."

Like Essop and Essack, Moodley had been trapped into a conspiracy by Timol. He did not blame Moodley for wanting laws that caused grievances changed, but this should not be done by means of a conspiracy that could have led to death and misery for thousands.

The judge expressed the wish that Moodley should get an opportunity in prison to further his studies.

Moodley was the only one of the accused to look first tense, then relieved as sentence was passed.

Finally turning to Amina Desai, Mr Justice Snyman said that throughout the trial he had had the impression that she

Essop: Judge
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gives VIEWS

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She was evidently an educated woman who had throughout her life conducted herself in an "exemplary fashion."

Yet, he found it difficult to believe that, as in the cases of the other accused, she had been drawn into the conspiracy by Mr Timol. He could not believe that a person with her intelligence could have co-operated with Mr Timol for such a long time without realising what she was doing.

She had made available her house and car to Mr Timol for him to go ahead with his "diabolical" activities.

In view of her age, he would also sentence her to the minimum penalty of five years' imprisonment.

He hoped that once out of prison, she would continue to try and rectify matters that caused grievances among her people, but she should set about this in a lawful way.

After sentence was passed, counsel for the defence asked for the enrolment of an application for leave to appeal. The judge granted the request.

Mr Justice Snyman told Essop that he had the right to protest against unfair laws, but not by illegal and violent means. The protest must be peaceful.

The judge said it was always an unpleasant task for a court to sentence political offenders. Essop was of good character and had the making of a good and useful citizen. But he had

made himself party to the conspiracy of the SACP and ANC.

Essop, Moodley and Essack had been misled by Mr Timol, and Mr Timol had played on their grievances.

RULE OF LAW

In sentencing Essop, the judge said he took into account Moodley's statement that he regarded apartheid and the Group Areas Act as being against "the rule of law."

Not because he accepted this view, said the judge, but he believed it may have resulted in people being misled more easily.

There was a difference between the expression "the rule of law" and the law of a country. The former referred to a code of conduct according to which actual law should be related.

Politicians had used the expression "rule of law" as a tool, and certain academic lawyers had joined critics who said that certain actual laws were against "the rule of law."

These academic lawyers had a duty to criticise, said the judge, but he feared they had failed to make clear the distinction between the law and "the rule of law."

They had used the concept to provoke contempt of the real law. The belief had arisen among some that defying the real law was morally right.

DANGEROUS

The judge remarked on the fact that one critic had said the judiciary should enter the controversy. This was dangerous, he said — "the academic lawyers should be more circumspect."

As a university student, Essop might have been influenced by people at universities. He took into account the fact that Essop had grievances and the fact that the conspiracy had not yet led to violence.

"I am very sorry for you," the judge said to Essop, but he must carry out the law. He then sentenced Essop to five years' imprisonment.

The judge told the four accused that he hoped the prison authorities would allow them to continue or begin studies while they were in prison.

To Essack the judge said that much of what he said to Essop applied also to him. He was still a minor when he became involved with Mr Timol. He appreciated that imprisonment would be a serious handicap. He then sentenced him to five years' imprisonment.