



A139/15

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

(1) REPORTABLE: YES / NO
(2) OF INTEREST TO OTHER JUDGES: YES / NO
(3) REVISED
<u>2015.02.26</u> DATE
<u>[Signature]</u> SIGNATURE

3/08/2015

HIGH COURT REF. NO.: 63/15
MAGISTRATE'S CASE NO.: 2644/12
MAGISTRATE'S SERIAL NO.: R27/14

DATE: 24 February 2015

THE STATE

And

JOHN SHAGA SIYENGA

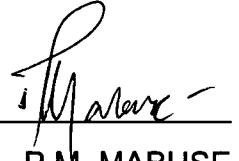
REVIEW JUDGMENT

[1] This matter landed on my lap as a special review. It is a partly heard matter which was heard by one Mr. Sambo, a contract magistrate. If anything, this matter is a classic

example of lack of patriotism and lack of accountability on some of the South African citizens.

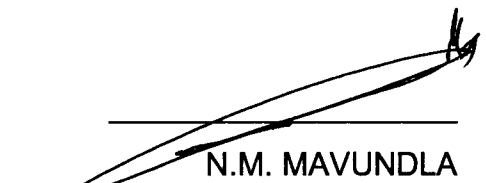
- [2] The accused in this matter, Mr. John Shaga Siyenga, was charged with defeating the ends of justice by the district court at Nelspruit or Mbombela. On 20 May 2013 the accused pleaded not guilty before the aforementioned Mr. Sambo and, through his legal representative, made a plea-explanation as enjoined by the provisions of s 115 of the Criminal Procedure Act 51 of 1977 ("the CPA"). The State then led the evidence of certain witnesses who were duly cross-examined by the accused's legal representative. The last of this witness testified, on 28 May 2013, after the matter was adjourned to 20 June 2013 for continuation. Since then the matter was postponed on several occasions by other magistrates simply because of the unavailability of the said Mr. Sambo. I have been informed that Mr. Sambo has failed to finalise this matter despite the fact that he postponed the matter on 3 February 2014, 2 April 2014 and 10 April 2014. This matter has been on the roll since 21 December 2012.
- [3] It is now clear that unless the proceedings are, or part of them is, set aside the matter will never be finalised.
- [4] I make the following order:
1. The proceedings are hereby set aside only in respect of the evidence of the witnesses who already have testified;
 2. The plea and plea-explanation of the accused shall stand;

3. The state must lead evidence of the state witness again, and;
4. The matter shall then proceed in the normal course of a criminal trial until its conclusion.


P.M. MABUSE

JUDGE OF THE HIGH COURT

I agree, and it is so ordered.


N.M. MAVUNDLA
JUDGE OF THE HIGH COURT

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