

IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN

Review No.: 325/2013

In the matter of:

THE STATE

v

THABISO NTSHASA

AND

Review No.: 327/2013

In the matter of:

THE STATE

v

MARKUS JEROME ROBINSON

CORAM:

RAMPAI, AJP *et* EBRAHIM, J

JUDGEMENT:

EBRAHIM, J

DELIVERED ON:

30 JANUARY 2014

[1] This matter was placed before me in terms of section 304(4) of the Criminal Procedure Act, 51 of 1977 by the magistrate Bloemfontein with the following remarks:

“(1) On 24/10/2013 (case number 12/1181/13) accused was charged with theft. He was legally represented by Ms Motsapi of the Legal Aid Board. Accused pleaded guilty, the

State then asked the Court to apply the provisions of section 112(1)(a) of Act 51 of 1977. Accused was sentenced as follows:

In terms of section 297(1)(a) dd of Act 51 of 1977 (submit himself to a rehabilitation centre). The Magistrate did not conduct an enquiry in terms of section 103(2) of the Firearms Control Act 60/2000.

The passing of sentence was not suspended in terms of section 297(1)(a) (dd) for a certain period, the accused was only released on condition that he submit himself to a rehabilitation centre.

It is therefore submitted that the proceedings were not in accordance with Justice.

- (2) On 30/10/2013 (case number 12/1215/13) accused was charged with contravening section 4(b) of Act 140 of 1992 Possession of dagga. He was legally represented by Ms Motsapi of the Legal Aid Board. Accused pleaded guilty, the State then asked the Court to apply the provisions of section 112(1)(a) of Act 51 of 1977.

Accused was sentenced as follows:

In terms of section 297(1)(a) of Act 51 of 1977 passing of sentence postponed for a period of one year.

The passing of sentence was postponed in terms of section 279(1)(a) of Act 51 but the Magistrate omitted to stipulate the conditions in terms of section 297(1)(a) (i) or 297(1)(a) (ii) of Act 51 of 1977 on which the accused are released and at what stage he must appear before the Court again.

It is therefore submitted that the proceedings were not in accordance with Justice.

The Judge on review is therefore requested to make the following orders:

- a) Confirm the convictions.
- b) Set aside the imposed sentences.
- c) Remit the records to the Magistrate concerned to impose competent sentences or make any other orders deemed necessary under the circumstances."

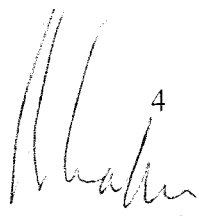
[2] I agree with the learned magistrate whilst the convictions are in order, the sentences are not accordingly, the proceedings not having been conducted in accordance with Justice, the following order is made:

ORDER

[3] The convictions are confirmed.

[4] The sentences imposed on both MARKUS JEROME ROBINSON under Case No 12/1181/13 and THABISO NTSHASA under Case No 12/1215/13 are hereby set aside.

[5] The Records of proceedings in both Case No 12/1181/13 and Case No 12/1215/13 are remitted to the Magistrate Bloemfontein for sentence to be imposed afresh.



S. EBRAHIM, J

I concur.



M. H. RAMPAL, AJP