

A480/2013.

IN THE NORTH GAUTENG HIGH COURT, PRETORIA

REPUBLIC OF SOUTH AFRICA

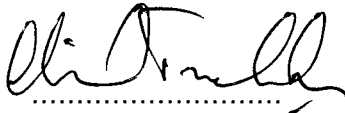
9/7/2013

CASE NO: 639/13

In the matter between:

THE STATE

and

(1)	<u>REPORTABLE:</u>	<u>YES / NO</u>
(2)	<u>OF INTEREST TO OTHER JUDGES:</u>	<u>YES / NO</u>
	<u>01/07/13</u> DATE	 SIGNATURE

MPUMI MASEMOLA

Accused

JUDGMENT

Tuchten J:

- 1 The accused was convicted by a magistrate of assault and sentenced to pay a fine with an alternative of imprisonment, with a further fine (with the alternative of imprisonment) suspended on certain conditions.
- 2 The day after passing sentence, the trial magistrate realised that the suspended portion of the sentence exceeded the jurisdiction provided by law and commendably immediately submitted the matter to this

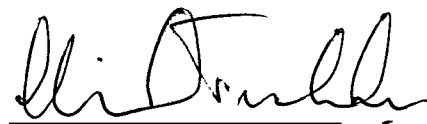
court on special review. The acting head of the office in which the trial magistrate works supports the review.

3 In these circumstances the sentence must be set aside. As sentence is preeminently a matter for the trial court, the case will be remitted to the magistrate to pass sentence afresh.

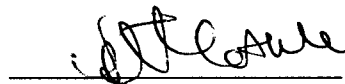
4 I make the following order:

- 1 The conviction of Mpumi Masemola on a charge of assault in the Springs Magistrate's Court under case no. K225/13 is confirmed but the sentence imposed is set aside.
- 2 The case is remitted to the trial magistrate to pass sentence afresh.

I agree.



NB Tuchten
Judge of the High Court
1 July 2013



SP Mothle
Judge of the High Court
1 July 2013