

FREE STATE HIGH COURT, BLOEMFONTEIN
REPUBLIC OF SOUTH AFRICA

Case No. : 26/2013

In the case between:-

THE STATE

and

TEBELO CHARLES RAMONYAOLA

CORAM: JORDAAN, J *et* DA ROCHA-BOLTNEY, AJ

JUDGMENT BY: JORDAAN, J

DELIVERED ON: 7 FEBRUARY 2013

[1] The accused in this matter was charged with rape and was granted bail for purposes of awaiting trial. He failed to appear and the bail was, provisionally forfeited. At the following hearing of the matter the accused again did not appear and bail was finally forfeited to the state.

[2] Sometime after that the accused was arrested and appeared before court and at that stage charged with contravention of

section 67(1) of the Criminal Procedure Act, no. 51 of 1977. He was found guilty and sentenced to a caution and discharge.

[3] The learned magistrate afterwards came to a different view and sent the matter through for special review. In his comment the magistrate points out that since the bail was already forfeited to the state, the accused should not have been charged in terms of section 67(1) but he should have been charged in terms of section 67(A) of the said Act.

[4] In view of the above, the learned magistrate is of course quite correct and the proceedings and the charge in terms of section 67(1) of the Act was at that stage not competent.

[5] In the result the conviction of contravening section 67(1) of Act 51 of 1977 and the sentence following upon that are set aside.

A. F. JORDAAN, J

I concur.

P. W. DA ROCHA-BOLTNEY, AJ

/EB