

**FREE STATE HIGH COURT, BLOEMFONTEIN**  
**REPUBLIC OF SOUTH AFRICA**

Review No : 115/2013

In the review between:

**THE STATE**

*versus*

**TSIETSI RAMOKHOSI**

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**CORAM:** LEKALE, J et MHLAMBI,AJ

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**JUDGMENT BY:** MHLAMBI,AJ

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**DELIVERED ON:** 11 JULY 2013

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[1] This matter came before us by way of special review in terms of Section 304(4) of the Criminal Procedure Act, 51 of 1977.

[2] On 31 January 2013 the accused was charged with and pleaded guilty to assault in the Bloemfontein Magistrate's Court and was convicted accordingly. The State, thereupon, asked the Court to apply the provisions of Section 112(1)(a) of Act 51 of 1977. The following sentence was imposed:

“Fined R4000.00 (four thousand rand only) or undergo 2 (two) months imprisonment wholly suspended for 5 (five) years on condition that the offender is not convicted of assault committed during the period of suspension”

- [3] The Magistrate, in referring the matter for special review, said the following:

**“After the imposition of the sentence I condede that the sentence imposed is contrary to the provisions of Section 112(1)(a) Act 51 of 1977. The determination of amounts for purposes of certain provisions of the Criminal Gazette No. 36111 dated 30 January 2013 only came into effect from 01 February 2013.”**

- [4] I agree with the learned Magistrate and make the following orders:

1. The conviction is confirmed.
2. The sentence is set aside.
3. The record is remitted to the Magistrate for the imposition of an appropriate sentence.

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**JJ MHLAMBI,AJ**

I concur.

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**LJ LEKALE, J**