

IN THE HIGH COURT OF SOUTH AFRICA
(ORANGE FREE STATE PROVINCIAL DIVISION)

Review No. : 239/2005

In the review between:

THE STATE

versus

MBUMISELO THAMMY MADLALA

CORAM:

CILLIé J *et* EBRAHIM J

JUDGMENT:

EBRAHIM J

DELIVERED ON:

10 MARCH 2005

[1] This matter has been placed before met by way of Special Review No. 304/2004 of the Criminal Procedure Act by the magistrate Vrede who has commented as follows:

“2005/02/22

Die Griffier
Privaatsak X20612
BLOEMFONTEIN
9300

STAAT TEEN MBUMISELO THAMMY MADLALA –
AANRANDING SAAK NO. C124/2004
SAAK VIR SPESIALE HERSIENING IN TERME VAN ARTIKEL 304(4) VAN
WET 51/1977

- 1) In bovermelde saak was die beskuldigde op 22/02/2005 deur myself skuldig bevind en gevonniss.
- 2) Na die beskuldigde reeds gevonniss was, het dit onder my aandag gekom dat die beskuldigde regsverteenvoordig was en derhalwe kon die verrigtinge nie in die afwesigheid van sy prokureur wat nie teenwoordig was, afgehandel word nie.
- 3) Dit is my submissie dat die skuldigbevinding en vonnis nie in ooreenstemming is met geregtigheid nie.
- 4) Hiermee saaknotule vir u verdere aandag en instruksies.

GJA VAN DER WESTHUIZEN
LANDDROS/VREDE

GJAVDW/jmvdw”

[2] I agree with the learned magistrate and accordingly I make the following order:

2.1 The conviction and sentence are set aside.

2.2 This matter is remitted to the magistrate and it is ordered that the trial of the accused proceed before another magistrate.

S. EBRAHIM, J

I concur.

C.B. CILLIé, J

/sp