

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

**Review No. : 2033/2005**

In the special review between:

**THE STATE**

versus

**MOTLALEPULA MARGARET MOKHELE**

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**CORAM:** HATTINGH J *et* EBRAHIM J

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**JUDGMENT:** EBRAHIM J

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**DELIVERED ON:** 5 MAY 2005

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[1] This matter was placed before me on special review in response to a request from the magistrate, Ladybrand which reads as follows:

“The charge was read out to her (accused), she understood the charge against her. She pleaded guilty, Section 112(1) of Act 51/1977 was applied. The accused was convicted, after that Prosecutor ‘proved’ no previous convictions against the

accused.

On mitigation, the accused informed the court that, she did not plead guilty the interpreter misunderstood her, actually she pleaded not guilty.

The Magistrate has no jurisdiction to reverse, the verdict or the trial to start de novo.

With due respect, I request that the Honourable Judge, to set aside the conviction, in terms of Section 304(4) of Act 51/77.

The case is remanded until the 18/03/2005 pending the outcome of the Special review.

The record is returned herewith.”

[2] In the circumstances the following order is made.

1. The conviction is set aside.
2. The matter is remitted to the court *a quo* to be heard *de novo* before another magistrate.

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**S. EBRAHIM, J**

I concur.

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**G.A. HATTINGH, J**

/sp