

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

Review No. : 471/2005

In the special review between:

THE STATE

versus

MPE ELIAS MOLOI

CORAM: MUSI J *et* EBRAHIM J

JUDGMENT: EBRAHIM J

DELIVERED ON: 5 MAY 2005

[1] This matter has been referred by way of special review under the following circumstances:

“1.1 Accused had been charged for a contravention section 59(4) read with section 333 of the National Road Traffic Act 93 of 1996, because he had allegedly unlawfully while driving a motor vehicle on a public road exceeded the speed limit of 60 kmh. The contravention allegedly occurred on the 24/07/2004 in our district. The accused was allowed to pay admission of

guilt fine of four hundred rand (R400.00) which he was unable to pay before the trial date of 28/09/2004.

1.2 The accused appeared before the court on the trial date and required a remand of the matter to raise the admission of guilty fine. The matter was then remanded on his request until the 29/10/04. He however failed to appear before court and a warrant of arrest was authorised against him.

1.3 On the 24/02/05 the accused appeared by a warrant of arrest before the court. It then came to the notice of the court that the accused had paid a reduced admission of guilt fine of Two hundred rand (200.00) to the clerk of court according to the traffic case record in Case no 1951/04 on the 10/01/04. The checking magistrate had on 11/01/05 mistakenly thought that it was indeed a reduced fine while, in fact the Two hundred rand had been paid in respect of another case against the accused i.e. Case no Cc 268/04 which was an assault charge against accused. Both case records have been attached for your attention.

1.4 The checking magistrate had then in error confirmed the reduced admission of guilt fine because only the form referred to as 'Bylae A' had been placed before him for checking with the record of Case no DT 1951/04. The Bylae A should have been separately attached and filed

with Case no Cc 268/04 and never placed before magistrate with the record of Case no 1951/04. We sincerely regret this error.”

[2] On the basis of the above the magistrate before whom the accused appeared erroneously accepted that the accused had indeed paid an admission of guilt fine and disposed of the matter by endorsing the document accordingly whereas the admission guilt fine was paid in respect of another matter.

[3] The proceedings have clearly not been conducted in accordance with justice and must be set aside.

[4] The following order is made:

- 1) The proceedings in Case No DT 1951/04 are set aside.
- 2) The matter under Case No DT 1951/04 is remitted to the magistrates' court for consideration afresh and for retrial.

S. EBRAHIM, J

I concur.

H.M. MUSI, J

/sp