

IN THE HIGH COURT OF LESOTHO

In the Appeal of

SEKHOBÉ MOLETSANE

Appellant

v

R E X

J U D G M E N T

Delivered by the Hon the Chief Justice, Mr Justice
T S. Cotran on the 9th day of May, 1984

The appellant was convicted of stock theft (4 heads of cattle) and sentenced to 18 months imprisonment half of which suspended for 3 years on conditions

The appeal is against conviction

The case for the Crown was to the effect that some time during November 1981 four heads of cattle that were kraaled at the police pound in Mount Moorosi Police Post were stolen. According to the police, the cattle, at the time of the theft, were regarded as stray animals. The charge against the appellant was that he stole the cattle "the property or in the lawful possession of Lesotho Mounted Police at Mount Moorosi" i.e. before the police knew who the owner was.

It would seem that the four heads of cattle were found in possession, not of the appellant, but of four other persons, one

/beast

beast with each, a few days after the theft. The appellant was arrested a few days later and kept in the cells, and the four persons in whose possession the beasts were found, were brought to the cells where they identified the appellant as the person from whom they individually bought the head of cattle in his or her possession. The appellant had given a bewys to each. These were found to be false however.

The appellant's defence at the trial was a denial that he sold the beasts to any of the four witnesses who had testified that he was the seller, and this was the only point taken on appeal by Mr. Ramodibedi on behalf of the appellant the argument being that the investigating officer should not have taken the witnesses to the cell where the appellant was kept but should have conducted an "identification parade"

Well it is impossible to circumscribe the instances when an "identification parade" must be held, and when it need not be held. It all depends on the circumstances.

The witness Matsepang (P.W.3) testified that she had known the appellant before she bought from him the stolen ox in November 1981. He was driving four heads of cattle at the time. The witness Makhopiso Sehlabo (P.W.5) did not know the appellant from before but she was in the company of Matsepang (P.W.3) who knew him. Another witness Qekiso (P.W.7) testifies that he knew the appellant when he bought a head of cattle from him and was requested to find buyers for other cattle he had. He knew of a deal that the appellant had struck with some women who were interested in buying cattle. These women gave evidence.

It should be mentioned that the trial of the appellant was

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delayed for nearly 20 months, by which time one of the stolen cattle had died. However, three were still alive and these were identified by the witnesses and seen by the magistrate.

There was in my opinion sufficient evidence to convict the appellant. The appeal against conviction (and sentence) is dismissed.

CHIEF JUSTICE
9th May 1984

For Appellant Adv Ramodibedi
For Crown Miss Moruthoane