

IN THE HIGH COURT OF LESOTHO

In the matter between:-

TSIETSI PANYANE

APPLICANT

and

THE DIRECTOR OF PUBLIC PROSECUTIONS

RESPONDENT

JUDGMENT

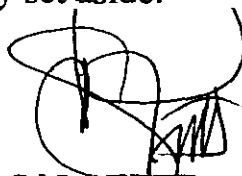
Delivered by the Honourable Mr Justice S.N. Peete
on 3rd December, 2001

Having heard **Mr Putsoane** and having heard **Ms Mofubelu**, the application is granted and the conviction and sentence of applicant are set aside for the following reasons.

Firstly, section 5 (2) of the Childrens Protection Act 1980 provides that where a person below (18) eighteen is charged with an adult, the Director of Public Prosecution must direct that such a person be tried jointly with an adult before a Subordinate Court sitting as such. The appellant was below eighteen (18) years when tried and **ex facie** the record, the DPP had not directed as required by law. This amounted to a mistrial justifying quashing of proceedings.

Secondly, upon the merits of the case there is no sufficient evidence proving beyond reasonable doubt that applicant committed the crime of theft or if not, at least subjectively knew that the vehicle he drove was stolen; the applicant's explanation was reasonably possibly true.

Conviction and sentence are hereby set aside.

A handwritten signature in black ink, consisting of several overlapping loops and a vertical line, positioned above the printed name.

S.N. PEEPE

JUDGE

For Applicant: Mr Putsoane

Crown : Ms Mofubelu