

IN THE HIGH COURT OF LESOTHO

In the matter between:-

REX

vs

**LEKAKE RAMOSIE
RALECHATE KHOELE**

ORDER

Delivered by the Honourable Mr Justice S.N. Peete
on the 17th April, 2001

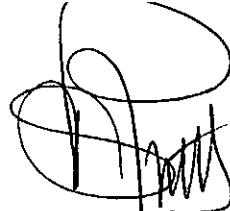
The Accused had been committed to this court for sentence in terms Section 293 (1) of Criminal Procedure and Evidence Act No.9 of 1981.

On the 28th December 2000, the Court having heard **Ms Makoko** for the crown and **Mr Maieane** for the accused, and having perused the record ordered as follows:-

“It is clear that when first remanded on 30/4/99 the accused were released on bail and advised by the remanding magistrate **Mr Chobokoane** of their right to seek legal representation. But on the day of trial **Mrs Pinda-Setsabi** the trial magistrate seems *ex facie* the record to have made no inquiry into the issue of legal representation. This was important in view of the seriousness of the offence and potential punishment under sec. 297 of the CPE (**Phomolo Khutlisi vs Rex** 1993 LLR 19 at 21 per **Ackermann J.A**).

In these circumstances, conviction is quashed and a **de novo** trial on the same charge is to be instituted (sic-within 30 days) before a Senior Magistrate. The presiding Magistrate shall decide the issue of bail if applied for. The charge of rape still stands.”

See **Hlalele & Another vs DPP** - C.of A. (CRI) No.12 of 2000 (delivered by Steyn P. on 12th April 2001.)

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S.N. PEETE
JUDGE