

CRI/APN/704/2012

IN THE HIGH COURT OF LESOTHO

In the matter between:-

RETŠELISITSOE LEEPILE

1st Applicant

KHOTSO TLELAI

2nd Applicant

Vs

DIRECTOR OF PUBLIC PROSECUTIONS

1st Respondent

THE LEARNED MAGISTRATE MR. MOKHESI

2nd Respondent

CRI/APN/705/2012

IN THE HIGH COURT OF LESOTHO

In the matter between:-

KHOTSO TLELAI

1st Applicant

Vs

DIRECTOR OF PUBLIC PROSECUTIONS

1st Respondent

THE LEARNED MAGISTRATE MRS. LETSIKA

2nd Respondent

JUDGMENTS

Coram: Hon. Hlajoane J.

Date of Hearing: 17th December, 2012

Date of Judgment: 17th December, 2012

Summary

Applications for reviews where sentence imposed is for a minor offence and in terms of 5.4 of Amendment to Criminal Procedures and Evidence Act 1998 accused to be sentence to community service. Convictions confirmed and sentence of imprisonment replaced by option of a fine.

- [1] Both these cases came before this Court for review. The Applicants were in each case tried before the Magistrate's Court in Mafeteng for assault with intent to do grievous bodily harm. They all pleaded guilty to the charges and were duly convicted and sentenced to terms of imprisonment without an option of a fine.
- [2] The matters are before me for review and both proceedings per orders of this Court were duly disputed to the Register in terms of Rule 50 (1) (b) of the High Court Rules.
-

1. High Court Rule No. 9 of 1980

- [3] Applicants have alleged irregularities in the conduct of the trials before the Magistrate's Court. The Applicants were unrepresented before the trial Court. Besides complaining of not having been informed of the implications of proceedings unrepresented, pleading guilty to the charges, the likely sentence in the event of being convicted and absence of an interpreter they also referred to some provisions of the Amendment to the Criminal Procedure and Evidence Act.
 - [4] Relying on the provisions of section 4 of the Act Applicants have elaborated on the import of that section. The amendment has laid down a provision showing that a person sentenced to imprisonment for a period of less than 18 months should ordinarily not be detained but be engaged to community work as opposed to imprisonment.
 - [5] Applicants further showed that the offence they were alleged to have committed was referred to by the Court as a minor offence.
 - [6] When counsels on both sides appeared before me, they were both agreed that the offences were not serious and that community service in terms of the amendments Act would be appropriate or an option of a fine.
 - [7] In the circumstances of both cases the Court confirmed the convictions in both cases, but altered the imprisonment term to a fine of M1000,00 each, and that having paid the fine each to be released from prison forthwith.
-

2. Criminal Procedure and evidence Amendment Act 1998

A. M. HLAJOANE J
JUDGE

For Applicants: Mr. Molise
For Respondents: Mr. Letsie