



A279/16

IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA

DATE: 09/05/2016

HIGH COURT REF. NO. : 126/16  
REVIEW CASE NO : SR 4/2016/LAM  
CASE NUMBER : D3090/14

IN THE MATTER BETWEEN:

THE STATE versus THOMAS MACHAULE  
THE STATE versus SABELO MKONTO  
THE STATE versus TEBOGO MAHLANGU

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REVIEW JUDGMENT

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TOLMAY, J:

[1] This matter came before me by way of special review.

[2] The accused in the first matter (Thomas Machaule) a 40 year old male was arraigned in the Magistrate Court, Daveyton, on a charge of contravening sec 65(2)(a)/(b) of the National Road Traffic Act 93 of 1996 – driving a motor vehicle with excessive amount of alcohol in his body. He pleaded guilty in terms of sec

112(1)(a) of Act 51 of 1977. The state accepted his plea whereupon he was convicted and sentenced to R10 000-00 fine or 3 months imprisonment that is wholly suspended for 5 years on condition that he is not convicted of the same or similar offence committed during the period of suspension.

- [2] The accused on the second matter (Sabelo Mkonto) a 26 year old male was arraigned in the Magistrate Court, Daveyton, on a charge of assault with intent to do grievous bodily harm. He pleaded guilty in terms of sec 112(1)(a) of Act 51 of 1977. The state accepted his plea whereupon he was convicted and sentenced to R10 000-00 fine or 3 months imprisonment that is wholly suspended for 5 years on condition that he is not convicted of the same or similar offence committed during the period of suspension.
- [3] The accused in the third matter (Tebogo Mahlangu) a 24 year old male was arraigned in the Magistrate Court, Daveyton, on a charge of assault with intent to do grievous bodily harm. He pleaded guilty in terms of sec 112(1)(a) of Act 51 of 1977. The state accepted his plea whereupon he was convicted and sentenced to R10 000-00 fine or 3 months imprisonment that is wholly suspended for 5 years on condition that he is not convicted of the same or similar offence committed during the period of suspension.
- [4] The Acting Head of the Daveyton Magistrate's Court submitted the review to this Court and indicated that the presiding officer exceeded the maximum fine prescribed by sec 112 of Act 51 of 1977. The presiding officer confirmed in a written declaration that he erred in imposing a fine in excess of the amount

prescribed.

[5] The DPP's view was obtained and they are of the view that the sentence should be set aside and substituted for a competent sentence.

[6] I am of the view that this approach is correct.

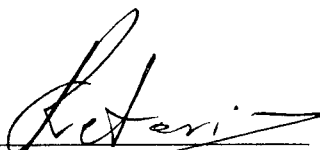
[7] The following order is made:

7.1 in all three instances the conviction is confirmed, but the sentences are set aside and substituted with the following:

7.1.1 Each of the accused is sentenced to a fine of R5 000-00 or 3 months imprisonment wholly suspended for 5 years on condition that he is not convicted of a similar offence committed during the period of suspension.

I agree

  
R G TOLMAY  
JUDGE OF THE HIGH COURT

  
C PRÉTORIUS  
JUDGE OF THE HIGH COURT