

SOUTH AFRICA / JUDGMENT

S v Loro (140065, CA&R) [2014] ZAECHGC 64 (12 August 2014) [2014] ZAECHGC 64

COURT

Eastern Cape High Court, Grahamstown

BEFORE

G Goosen, D Chetty

CASE / FILE NUMBER

140065, CA&R

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IN THE HIGH COURT OF SOUTH AFRICA

EASTERN CAPE DIVISION, GRAHAMSTOWN

CASE NO: CA&R:

REVIEW NO: 140065

Delivered on: 12 August 2014

In the matter between

THE STATE

And

MACDONAD NYANISILE LORO

Accused

REVIEW

JUDGMENT

GOOSEN, J.

- [1] This is a special review in terms of section 304 of the Criminal Procedure Act, Act 51 of 1977 (the “CPA”). The accused was convicted, on a plea of guilty, of two charges, namely culpable homicide and contravening section 12 of Act 93 of 1996 i.e. driving a motor vehicle without a driver’s licence.

- [2] The accused was legally represented at trial. HE was sentenced, on the first count, to undergo 18 months correctional supervision in terms of section 276(1)(h) of the CPA together with a further 6 months imprisonment suspended for a period of five years on certain conditions. In respect the second count he was sentenced to a fine of R1000.00 or 6 months imprisonment suspended for five years on certain conditions. It is these conditions which form the subject of this special review.
- [3] The matter was sent on special review because the magistrate noted that an error had occurred during the sentencing of the accused. The transcript of the sentencing proceedings indicates that the sentence imposed in respect of count one was made conditional upon the accused not again being convicted on a charge of “roekelose of nalatige bestuur” whereas the sentence entered on the J15 charge sheet records the condition of suspension as being “not again been convicted on a charge of culpable homicide”. The magistrate submitted in the referral that the reference to reckless or negligent driving was an error and that the correct sentence is that recorded in the J15 charge sheet. He requested that the error on the record be corrected by this court.
- [4] In respect of count two the magistrate also pointed to an error. In this instance the error occurred in the transcription of the sentence on the J15. There reference is made to section 1 of Act 93 of 1996 whereas reference to the section is omitted in the transcript of the sentence proceedings. The magistrate indicated that the correct condition of suspension ought to be a reference to section 12 of the said Act. He requested that the sentence therefore be corrected to reflect this.
- [5] It is apparent from a perusal of the record presented on review that the convictions are sound and that the errors referred to by the magistrate were inadvertent errors which stand to be corrected.
- [6] In the circumstances the following order is made:

The sentences imposed by the trial court are corrected to read as follows:

“Count 1: In terms of Section 276(1)(h) of Act 51/1977 the accused is sentenced to 18 (eighteen) months correctional supervision and a further 6 (six) months imprisonment which is suspended for (5) five years on condition that the accused is not again convicted of culpable homicide arising from the driving of a motor vehicle committed during the period of suspension.”

“Count 2: The accused is sentenced to a fine of R1000.00 (one-thousand-rand) or six months imprisonment which is suspended for 5 (five) years on condition that the accused is not again convicted of contravening Section 21 of Act 93 of 1996 committed during the period of suspension.”

G. GOOSEN

JUDGE OF THE HIGH COURT

CHETTY, J.

I agree.

D. CHETTY

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