

SOUTH AFRICA / JUDGMENT

S v Ramaotsa (A182/2014) [2014] ZAGPPHC 333 (27 March 2014) [2014] ZAGPPHC 333

COURT

North Gauteng High Court, Pretoria

BEFORE

M J Teffo, E Makgoba

CASE / FILE NUMBER

A182/2014

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(IN THE HIGH COURT OF SOUTH AFRICA)

(NORTH GAUTENG)

HIGH COURT REF NO: 19/14

REVIW CASE NO: PR 01/2014

CASE NO. A 182/14

DATE: 27 MARCH 2014

THE STATE

EPHRAIM

RAMAOTSA.....Accused

SPECIAL REVIEW JUDGEMENT

TEFFO, J:

- [1] The accused, a 28 year old male, appeared in the magistrate's court, Soshanguve on 6 December 2013 on a charge of contravention of section 4 (a) 4 (b) read with sections 1,13,17 to 25 and 64 of the Drugs and Drug Trafficking Act, Act 140 of 1992 (possession of 4.10 grams of dagga).
- [2] He was not legally represented and on 10 December 2013 he pleaded guilty. He was then convicted as charged and sentenced to pay a fine of R1200.00 or 12 months imprisonment wholly suspended for a period of 5 years on condition that the accused is not convicted of dealing or possession of drugs committed during the period of suspension.

- [3] The matter was brought before me as a special review in terms of section 304(4) of the Criminal Procedure Act of 1977.

section 304

Criminal Procedure Act of 1977

- [4] The magistrate who presided over the matter is of the view that she had imposed an incompetent sentence. She did not state the reasons as to why she thinks she had imposed an incompetent sentence. She merely stated that she has learnt that she committed an oversight.
- [5] The matter was then referred to the office of the National Director of Public Prosecutions (NDPP) for comment.
- [6] The office of the NDPP submitted that in terms of s 112(1) (a) the presiding judge, regional magistrate or magistrate may, if he or she is of the opinion that the offence does not merit punishment of imprisonment or any other form of detention without the option of a fine exceeding the amount determined by the Minister from time to time by notice in the Gazette, convict the accused in respect of the offence to which he or she pleaded guilty on his or her plea of guilty alone and, impose any competent sentence, other than imprisonment or any form of detention without the option of a fine or a fine exceeding the amount determined by the Minister from time to time by notice in the Gazette.
- [7] It was further submitted that the Minister has determined the amount of R5000-00 for purposes of section 112(1)(a) and (b) as per Government Notice (GN) R62 in Government Gazette (GG) 36111 of 30 January 2013 effective from 1 February 2013. The previous amount determined by the Minister was R1500-00 in terms of the repealed GN R239 in GG 24393 of 14 February 2003.

section 112(1)

- [8] Furthermore it was submitted that given the fact that the imposition of sentence is discretionary, the review court can only interfere if there is an irregularity or misdirection or where the sentence imposed is grossly excessive.
- [9] It was then proposed that the conviction and the sentence be confirmed as being in accordance with justice because the sentence imposed was competent in that it was a fine for an amount not exceeding that determined by the Minister in the Gazette.
- [10] The magistrate convicted the accused in terms of section 112(1)(a) of the Criminal Procedure Act 51 of 1977. She therefore in terms of the provisions of section 112(1) (a) of the Criminal Procedure Act 51 of 1977 had a discretion to impose any competent sentence other than imprisonment or any form of detention without the option of the fine or a fine exceeding the amount determined by the Minister from time to time by notice in the Gazette once she was of the opinion that the offence does not merit punishment of imprisonment or any other form of detention without the option of the fine exceeding the amount determined by the

Minister from time to time by notice in the Gazette.

section 112(1

Criminal

Procedure Act 51 of 1977

section 112

Criminal Procedure Act 51 of 1977

[11] She imposed a fine of R1200-00 which did not exceed the amount determined by the Minister in the Gazette.

[12] It is my considered view that the sentence imposed is competent and I cannot find any reasons as to why I should interfere with it.

[13] I find that the proceedings are in accordance with justice.

[14] The conviction and sentence are therefore confirmed.

M J TEFFO

JUDGE OF THE HIGH COURT

I agree

E MAKGOBA

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