



**CASE NO.: CR 15/2009**

**IN THE HIGH COURT OF NAMIBIA  
HELD IN OSHAKATI**

In the matter between:

**THE STATE**

and

**FAMINI SHILONGO**

*(HIGH COURT REVIEW NO: 234/2007)*

**CORAM: LIEBENBERG, A.J et SHIVUTE, A.J**

Delivered on: 09 April 2009

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**REVIEW JUDGMENT:**

**LIEBENBERG, A.J.:** [1] The accused appeared before the Magistrate's court Ondangwa, on a charge of contravening section 6 of Ordinance 12 of 1956 – Possession of suspected stolen property.

[2] He pleaded guilty and following his conviction, was sentenced to a fine, wholly suspended.

[3] When the matter came on review, the then Reviewing Judge directed a query to the magistrate concerning the questioning done by the magistrate in terms of section 112 (1) (b) of the Criminal Procedure Act, Act 51 of 1977.

[4] The magistrate provided reasons from which I am satisfied that the conviction is in accordance with justice.

[5] Although the query directed to the magistrate did not refer to the manner in which the suspended sentence is framed, it is obvious that it cannot be permitted to stand as it is incomplete. It reads:

*“N\$ 1000 or 12 months imprisonment wholly suspended for 5 years on condition not convicted of contravening section 6 of Ordinance 12 of 1956, within period suspension”. (sic)*

[6] Besides the incompleteness of the sentence the word “*committed*” (once again!) is left out. Several judgments on the same point have recently been delivered involving the same magistrate and nothing needs to be added to what already has been said.

See *S v. Aron Angula*, Case No. CR 08/2009 delivered on 31 March 2009; *S v. Ziggy Speedo*, Case No. CR 06/2009 delivered on 17 March 2009; *S v. Lazarus Amakali*, Case No. CR 05/2009 delivered on 13 March 2009.

[7] In the result the following orders are made:

1. The conviction is confirmed.
2. the sentence is altered to read:

“N\$1000 or 12 months imprisonment wholly suspended for 5 years on condition that the accused is not convicted of contravening section 6 of Ordinance 12 of 1956, committed during the period of suspension”.

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**LIEBENBERG, A.J.**

**I Concur**

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**SHIVUTE, A.J.**

