

A 413/10

J4(81/800209)
High Court Ref. No 521
Magistrate's Serial No. 01/2010

20/05/2010 -

Case No. **RC46** of **2008**

THE STATE

Vs

CARL DAVID MASEMOLA

REVIEW JUDGMENT

The accused was charged with rape allegedly committed on 01 February 2008.


At the end of the State's case the accused's legal representative asked for discharge i.t.o s174 of the Criminal Procedure Act.

Instead of deciding on discharge or not, the Magistrate proceeded to find the accused guilty as charged.

Obviously this conviction can not stand.

The Magistrate realised her mistake and on the review made the following note: "Magistrate have found the accused guilty of rape as charged instead of turning down the application by the defence for the discharge of the accused at that stage of the proceedings."

The conviction is set aside.


13/5/2010
AA LOUW

JUDGE OF THE HIGH COURT

I agree


TJ RAULINGA
JUDGE OF THE HIGH COURT