

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

A 224/14

Date: 28 March 2014

Not reportable

Not of interest to other judges

Magistrate's Court POLOKWANE

Case number:DC1011/2012

High Court reference number: 192/2014

THE STATE VERSUS LESLEY KHOSA

REVIEW JUDGMENT

A A Louw J

[1] This case has been placed before me in the nature of a special review.

[2] Acting magistrate NR Munyai states under oath that the entire record of this part-heard matter was destroyed by fire when the Polokwane Magistrates court building was destroyed by fire, it is further stated that the reconstruction of the entire record is now impossible.

[3] From the part of the record that is available it appears that the charge is one of sexual assault. The complainant, Ms R[...], has testified and the transcription of her evidence is in the documents placed before me. It appears that she completed her testimony and that the case was then remanded.

[4] My understanding is therefore that the request before me is to make an order regarding further evidence that was led and in respect of which the record is not available.

[5] There is no reason for the complainant to testify again.

[6] I am therefore of the view that justice will be done if it is declared that only the evidence that was led after that of the complainant be set aside. This will in effect mean that the complainant's evidence will stand and that the case will have to proceed from that point onwards.

[7] I therefore make the following order:

1. Any evidence led after that of the complainant is set aside.
2. The evidence of the complainant will stand.
3. The case is referred back to acting magistrate Munyai to proceed with the trial.

A.A. Louw

Judge of the High Court

I agree.

N. JANSE VAN NIEUWENHUIZEN

Judge of the High Court