



IN THE HIGH COURT OF SOUTH AFRICA
LIMPOPO LOCAL DIVISION, THOHOYANDOU

REV CASE NO: 76/2015

<u>DELETE WHICH IS NOT APPLICABLE</u>	
(1)	REPORTABLE: YES/NO <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
(2)	OF INTEREST TO OTHER JUDGES: YES/NO <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
(3)	REVISED
4.10.3.2016	
Date	Signature

In the matter between:

THE STATE

AND

RAMADI, LANGANANI

REVIEW JUDGMENT

RAULINGA J:

- [1] This automatic review matter was placed before me in chambers in terms of section 302 of the Criminal Procedure Act, 51 of 1977 ("the CPA").
- [2] On the 27 October 2015 I directed a query to the magistrate in terms of section 303 of the CPA, raising concerns about the severity of the sentence of three years imprisonment in circumstances where the

accused is a first offender and 36 years of age which qualifies him for rehabilitation.

[3] The magistrate responded to my query on 16 November 2015 contending that the sentence of three years is in accordance with justice and that it must be confirmed. Subsequent to the magistrate's response, the matter was referred to the DPP's Office on 18 November 2015 for their comment. To my dismay, the DPP's memorandum was only received by the Registrar of this Court on the 18 February 2016. To add salt to the wound, the matter was kept in abeyance by the Registrar and was only placed before me on 29 February 2016. I am at a loss why this review was not placed before any other Judge long before my arrival here. Surely any other Judge could have dealt with it.

[4] The accused was charged with and convicted of the offence of malicious injury to property. It is alleged that he unlawfully and intentionally damaged two beds, one pair of sofas, one chair and four blankets to the value of R10 500.00. The said properties belonged to his mother, who had inherited same from her brother, who has since demised.

[5] The accused was not legally represented throughout his trial. He pleaded not guilty. His basis of defence is that he burnt the said

properties because the complainant (his mother) inherited the properties from his uncle illegitimately. Otherwise he admitted that he committed the offence. One agrees with the magistrate's verdict that the accused is guilty as charged.

[6] Regarding sentence, the accused was 36 years of age when he was sentenced. He was not employed. He is a first offender. He is unmarried with no children. The aggravating factors are that the properties belonged to his mother valued at R10 500.00.

[7] Despite these aggravating factors, the DPP is of the opinion that the personal circumstances of the accused are such that he should be treated with leniency and mercy. It is submitted by the DPP that the sentence of 3 years must be reduced to 18 months imprisonment.

[8] In sentencing an accused person the court must consider the crime, the offender and the interest of the community. And the sentence must be blended with a measure of mercy.

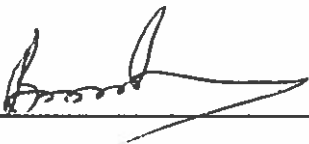
[9] I agree with the DPP that the sentence of 3 years is severe and must be interfered with.

[10] I would propose the following order:

(a) The conviction is confirmed.

(b) The sentence of 3 years imprisonment is set aside.

(c) The accused is sentenced to 18 months imprisonment of which 9 months imprisonment is suspended for 3 years on condition that the accused is not convicted of an offence of which violence is an element within the period of suspension.



T J RAULINGA
JUDGE OF THE HIGH COURT

I concur



MG PHATUDI
ACTING JUDGE OF THE HIGH COURT