

SWAZILAND HIGH COURT

SIBUSISO GULE

Applicant

Vs

COMMISSIONER OF POLICE

1st Respondent

ATTORNEY GENERAL

2nd Respondent

Civ. Trial No. 182/2002

Coram Sapiro, CJ

For Applicant MR. B. MAGAGULA

For Respondent MS MAMBA

JUDGMENT

(19/03/2002)

In this matter I have come to the conclusion that the vehicle has got to be returned. My reasons for doing so are that the vehicle was seized in terms of Section 16 of the Theft of Motor Vehicle Act of 1991. Section 16 reads:-

"16.1 Any Police Officer may, without warrant, search and arrest any person in possession of a motor vehicle if he has reasonable grounds to suspect that that person has stolen that motor vehicle or has received that motor vehicle

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knowing it to be stolen or has assisted in the stealing of that motor vehicle and shall seize from that person the motor vehicle and any document in relation to that motor vehicle."

In the present case the applicant brought his vehicle to the police station and it was there seized purportedly in terms of this section but there is nothing to show that the police had any reason to believe that the applicant stole the vehicle or that he received it knowing it to be stolen or that he assisted in the stealing of the motor vehicle. The evidence on behalf of the respondent goes no further than to suggest that the vehicle may have been stolen. There is nothing to connect the theft or subsequent knowing illegal conduct on the part of the applicant. The vehicle is to be returned to the applicant forthwith.

SAPIRE,CJ