

IN THE HIGH COURT OF SWAZILAND
HELD AT MBABANE

REVIEW CASE NO. 860 OF 2008
District Record No. 1117 of 2008

In the matter between:

THE KING VERSUS ALEX

LANGA

Date of consideration: 25 January, 2009.

Date of Order: 27 January, 2009.

ORDER ON REVIEW

MASUKU J.

1. The accused person appeared before a First Class Magistrate in the District of Manzini. He was charged with the offence of abduction, the allegation being that on 13 September, 2008, in the Mangweni area of the said District, the accused person did wrongfully and unlawfully and intentionally take and abduct one Nonduduzo Dlamini, a minor female of 16 years out of the control and against the will of her lawful guardian, Gcebile Dlamini, with the intention of having carnal knowledge of the said Nonduduzo.
2. Upon the charge being read to the accused, having been advised of his right to legal representation, he pleaded guilty thereto, a plea that was readily accepted by the prosecution. It would appear that the Court proceeded to convict the accused person on the basis of his plea and thereupon sentenced him a fine of E 1000.00 or in default of payment, a custodial sentence of 10 months' imprisonment.
3. The one question that tortures my mind is this - on what facts, the allegations contained in the charge sheet expressly excepted, was the certitude of the

accused's guilt returned? Were the any facts proved by admissible evidence or did the accused admit any facts put to him? Was there any evidence led to prove commission of the offence in questions as envisaged by the provisions of section 238 (1) (b) of the Criminal Procedure and Evidence Act, 67 of 1938?

4. In order to enable this Court to render its opinion as to whether the proceedings of the Court *a quo* do conform to the dictates of real and substantial justice, I require the trial learned Magistrate to furnish to the Registrar of this Court within 14 days of receipt of this Order, the following:

4.1 the facts, (including those relating to the commission of the offence), whether proved by the prosecution or admitted by the accused and upon which the verdict of guilty was predicated.

DONE IN MBABANE ON THIS THE 27TH DAY OF JANUARY, 2009.