

**IN THE HIGH COURT OF SWAZILAND**  
**HELD AT MBABANE**

**REVIEW CASE NO. 861 OF 2008**  
**Record No. MLT 85 of 2008**

**In the matter between:**

**THE KING**

**VERSUS**

**PHUMLANI DLAMINI**

**Date of consideration: 25 January, 2009.**

**Date of Order: 27 January, 2009.**

**ORDER ON REVIEW**

**MASUKU J.**

1. The accused person was arraigned before the First Class Magistrate in Manzini, charged with three counts in contravention of the provisions of various sections of the Road Traffic Act No. 6 of 2007. The charge sheet alleged that on 11 November, 2008 at Manzana area, the accused drove a vehicle registered SD 229 LN without being the holder of a valid driving licence; drove the said vehicle whilst it was not in a roadworthy condition and finally that though being a servant of Sihle Transport, the accused wrongfully and unlawfully failed to issue tickets to passengers on board the aforesaid vehicle before completing the journey as required by law.

2. The accused pleaded guilty to all three counts but was eventually convicted of the first two. The Crown accepted the accused's respective pleas of guilty. He was acquitted on the last count and no reasons for the acquittal were furnished by the trial Court. In the light of his aforesaid pleas, the accused was, without further ado convicted of the first two counts and was sentenced to a fine of E500.00 or five months' imprisonment in default of payment on the first and to a fine of E1000.00 or ten months' imprisonment in default of payment of the fine on the second count.

3. Upon reading the record of proceedings, I immediately realized that the conviction does not appear to be predicated on and supported by any facts, whether proved by the prosecution or admitted by the accused. A reading of the record of proceedings would suggest that there was even no evidence proving commission of the offences of which the accused was ultimately convicted. And as indicated earlier, the reasons for the acquittal of the accused on the last count have not been furnished by the trial Magistrate.

4. In the light of the foregoing deficiencies, I am unable to form an opinion as to whether the proceedings in question accorded with real and substantial justice. In the premises, I issue the following Order:

5. The learned trial Magistrate is hereby called upon to furnish to the Registrar of this Court within 14 days from the date of receipt of this Order, the facts upon which the conviction of the accused person was based, whether these be facts proved by the Crown or admitted by the accused.

6. The trial Magistrate is required to provide brief reasons for acquitting the accused on the third count.

**DATED IN MBABANE ON THIS THE 27<sup>th</sup> DAY OF JANUARY, 2009.**