



not reportable 1

## HIGH COURT OF SWAZILAND

**Lucky Sipho Simelane**  
*Appellant*

v

**Rex**

*Cri. Appeal No. 15/99*

*Coram*

*Sapire, CJ*  
*Maphalala, J*

**REVIEW**  
**(29/07/99)**

This appeal in the matter of Lucky Sipho Simelane against the King has come before us today. The record in this matter is deficient in a number of respects especially in regard to the progress of the proceedings and an explanation of how the original 4 accused came to be reduced to 2 and then 1 was convicted.

There also is some confusion as to the charge sheet but these are matters which need not impede the progress of the appeal. The appellant is appealing against apparently two counts but he was in fact found guilty of 3 counts and this confusion may arise from the fact that the latter two counts were to run concurrently but consecutively to the sentence on the first count of robbery.

Be this as it may the overwhelming problem in this case is that the Magistrate has not given reasons for judgment. In fact if one looks at what was said it is merely a two line indication in respect of each count as to why he was convicted. There has been no attempt to analyse the evidence or to indicate why the Magistrate has made his findings. This in itself is an irregularity of the proceedings and we treat this matter on review as we are entitled to do.

Before proceeding with this appeal we therefore require that the Magistrate give reasons for conviction. His

attention is also drawn to the Heads of Argument which were presented to us by the respondent. The crown seems to concede that the conviction on count two cannot be supported. The Magistrate is to deal with this by giving his reasons for judgment within 14 days of receipt hereof. A copy of the judgment is to be served on the appellant and the Registrar. Once these reasons for judgment have been served and filed the matter will be set down for a further hearing.

*SAPIRE, CJ*

I agree

*MAPHALALA, J*

**CORAM** :  
**FOR THE APPELLANT :**  
**FOR THE RESPONDENT :**

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**JUDGEMENT**

<JudgementDate>

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