

IN THE COURT OF APPEAL OF THE
REPUBLIC OF BOTSWANA

Criminal Appeal No. 24 of 1989
High Court Cr.App.-No. 112/88

In the matter of:-

KEAMORATA NTHEBOLANG

Appellant

vs.

THE STATE

Respondent

The Appellant in person
Ms. P. Solomon for the Respondent

R U L I N G

Coram: T. A. AGUDA, JA.
B. A. DOYLE, JA.
W.H.R. SCHREINER, JA.


SCHREINER JA:

The accused in this case was convicted by a magistrate at Lobatse for the offence of assisting in the disposal of stolen property, which he had reason to believe was stolen. The original charge was burglary and evidence was led that a disco machine had been stolen from a dwelling house and sold by the appellant a month later to third persons.

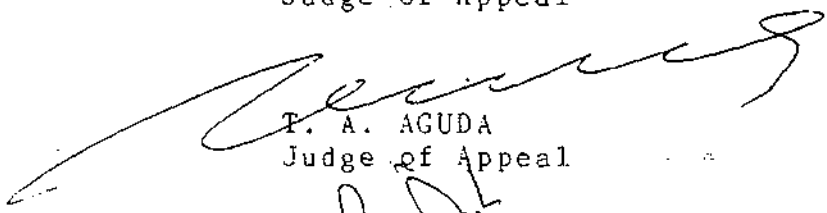
The accused was proved to have sold the disco machine to a person in the neighbourhood. Because a fairly lengthy period of time had passed between the burglary and the time of the sale, it was safer for the magistrate to find him guilty on the lesser charge of receiving stolen property rather than of the actual burglary. That the property which was sold was stolen property admits of no doubt.

The question therefore is: are there reasonable grounds for holding that he did not know that the disco machine was stolen? He told the story concerning Johnson and Patrick who were from Mafeking and who sold the disco machine to him. He did not ask them for an explanation as to where the machine came from. He said it was sold for P3,000 and he paid part of the money for which he did not receive any receipt. He did not know their residential address. He said that he had no reason to believe that the machine was stolen. The magistrate rejected this as being in the highest degree improbable. His view was supported by the learned Chief Justice who found that the appeal was without merit.


We have no reason to disagree with the decision of the court below and we are of the view that there is no reasonable prospect of success and that the application for leave to appeal should be refused.


W.H.R. SCHREINER
Judge of Appeal

I agree


T. A. AGUDA
Judge of Appeal

I agree


B. A. DOYLE
Judge of Appeal

GIVEN AT LOBATSE THIS ^{4th} ~~30th~~ DAY OF ^{December} ~~NOVEMBER~~, 1989.