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IN THE COURT OF APPEAL OF BOTSWANA

Criminal Appeal No. 12 of 1990

In the matter between:

LALA LESAUMAKO

vs

THE STATE

Appellant in person
P. S. Sedie for the State

J U D G M E N T

Coram: B.A. Doyle, J.A.:
G. Bizos, J.A.:
W.H.R. Schreiner, J.A.:

B.A. DOYLE, JA:

The applicant was convicted of shop-breaking and was sentenced to 4 1/2 years imprisonment and 4 strokes. His appeal to the High Court against conviction and sentence was dismissed. He was refused leave to appeal to this Court. He now seeks such leave from this Court.

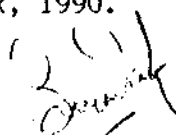
There are no merits in his application for leave to appeal against conviction. The evidence was clear and overwhelming against him. Leave to appeal against conviction is therefore refused.

The applicant has a string of previous convictions and the offence is serious. We see nothing wrong with the sentence of 4 1/2 years imprisonment. The applicant has, however, on five occasions been sentenced to corporal punishment. This Court has frequently stated that it serves no useful purpose to impose strokes on an accused person who has been sentenced to the

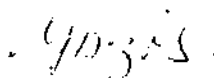
infliction of corporal punishment on a number of occasions previously.

In this case we do not consider that the imposition of strokes will have any useful effect. We grant leave to appeal against sentence and allow the appeal to the extent of varying the sentence by the deletion of the strokes.

DATED THIS 29TH DAY OF NOVEMBER, 1990.



B.A. Doyle
Judge of Appeal



G. Bizos
Judge of Appeal



W.H.R. Schreiner
Judge of Appeal