

**IN THE COURT OF APPEAL OF BOTSWANA**  
**HELD AT LOBATSE**

**CRIMINAL APPEAL NO. 39/94**  
**HIGH COURT CRIMINAL APPEAL NO. 152/93**  
**HIGH COURT CRIMINAL REVIEW NO. 270/93**

**In the matter between:**

**JOHN LOTSO SERAME**  
and  
**THE STATE**

**Appellant**  
  
**Respondent**

**The Appellant in Person**  
**Mr. K. Sebotho for the Respondent**

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**R U L I N G**

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**CORAM:**        **T.A. AGUDA**                      **J.A.**  
                  **W.H.R. SCHREINER**        **J.A.**  
                  **LORD W.L.K. COWIE J.A.**

**LORD W.L.K. COWIE J.A.:**

On the 24th of June 1993 the Senior Magistrate in Lobatse convicted the appellant of unlawful wounding contrary to Section 223(a) of Chapter 81:01 of the Penal Code. The appellant was sentenced to 5 years imprisonment with 2 years suspended for 3 years on condition that the accused does not commit any offence in which assault or causing wounding is an element.

On the 13th July 1993 Mr. Justice Barrington-Jones reviewed the conviction and sentence and made no further order. On the

18th May 1994 Chief Justice M. Mokama dismissed an appeal against both conviction and sentence and later, on the 3rd of August 1994 refused leave to appeal to the Court of Appeal. In spite of that refusal of leave to appeal the appellant on the 21st September 1994 wrote a letter to the Registrar of the High Court stating six grounds of appeal some of which raised grounds of appeal relating to conviction. In our opinion this procedure drives a coach and horses through the rules of the court. There is absolutely no justification, in the light of what has happened for the appellant to open up this whole matter again after it has been dealt with in three other courts.

However we made allowances for the appellant and permitted him to address us on these grounds of appeal as if it was an application for leave to appeal. The appellant then proceeded to say to us that the principal prosecution witnesses gave false evidence and framed him for this particular offence. These grounds were dealt with by the Magistrate and the High Court, and, in particular, the Magistrate, as the judge of first instance, decided that PW1 and PW 2 were telling the truth. It may be that there are some inconsistencies in the evidence of these two witnesses and the other Prosecution Witness but the Magistrate clearly dealt with that matter and decided that he was prepared to believe PW1 and PW2. By contrast he decided that the

appellant was not telling the truth. Furthermore, we have carefully considered all the evidence in the Record, and are quite satisfied that there are no possible prospects of success in the Court of Appeal. Since that is the test, we must therefore refuse the Application. Accordingly this application for leave to appeal to the Court of Appeal is dismissed.

PRONOUNCED IN OPEN COURT AT LOBATSE THIS. 18<sup>th</sup> DAY OF JANUARY, 1995.

*L. Frank Cowie*  
LORD W.L.K. COWIE J.A.

I agree

*T.A. Aguda*  
.....  
T.A. AGUDA J.A

I agree

*W.H.R. Schreiner*  
.....  
W.H.R. SCHREINER J.A.