

IN THE COURT OF APPEAL OF BOTSWANA
HELD AT LOBATSE

Court of Appeal Criminal Application No: 27/96
High Court Criminal Appeal No. 64/95

In the matter between:

TAUTONA SETUMO

Applicant

and

THE STATE

Respondent

Applicant in Person

Mr. P. Gunda for the Respondent

J U D G M E N T

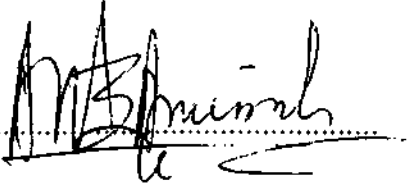
CORAM: Amissah P.
Tebbutt JA
Cowie JA

Amissah P.

Mr. Gunda states that he is not supporting the conviction. The record does not show that only the Appellant had access to the place where the dagga was found. The land^lord was not called. The appellant had given evidence that he occupied the place where the dagga was found only from time to time.

In the circumstances, the appeal is allowed; the conviction and sentence are quashed. The Court has noticed that the magistrate also erred in the matter of sentence as she imposed a term of imprisonment that was far higher than what she was competent under the law to impose. The magistrate should take note of that for the future.

Delivered in open Court this 14th day of January 1997



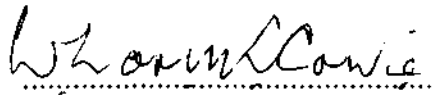
A. N. E. AMISSAH, President, Court of Appeal

I agree



P. H. Tebbutt J.A

I agree



Lord W.K.L. Cowie. JA