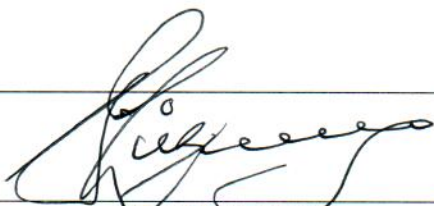


Case Title: <i>The State v Lukas Natangwe</i>	Case No: CR 23/2019
High Court MD Review No: 138/2018	Division of Court: Main Division
Heard before: Mr Justice Liebenberg <i>et</i> Lady Justice N N Shivute	Delivered on: 01 April 2019
Neutral citation: <i>S v Natangwe</i> (CR 23/2019) [2019] NAHCMD 75 (01 April 2019)	
The order: <ol style="list-style-type: none"> 1. The conviction is confirmed. 2. The sentence is confirmed but amended to read as follows: '2 (two) years' imprisonment of which 1 (one) year is suspended for a period of 5 (five) years on condition that the accused is not convicted of assault with intent to cause grievous bodily harm, committed during the period of suspension'. 	
Reasons for order:	
LIEBENBERG J (concurring SHIVUTE J) <ol style="list-style-type: none"> 1. This is a review in terms of section 302(1) of the Criminal Procedure Act 51 of 1977 (the CPA) as amended. 2. The accused appeared in the Magistrate's Court in the district of Lüderitz on a charge of assault with intent to do grievous bodily harm <i>r/w</i> with the provisions of the <i>Domestic Violence Act, 4 of 2003</i>. After evidence was heard the accused was found guilty as charged. The conviction is in accordance with justice and will be confirmed. 	

3. The only issue lies with the manner in which the sentence was framed and the omission of certain words from the sentence. The accused was sentenced to '2 (two) years imprisonment of which 1 (one) year is suspended for a period of 5 (five) years on condition accused is not convicted of any provision of Act 4/2003'.
4. The condition the magistrate imposed was overly broad. It is trite in the formulation of a sentence that the conditions of suspension must be clear so that the accused person is aware of the prohibited offence he or she should not commit during the period of suspension. To this end the sentence stands to be corrected.
5. As regards the partly suspended sentence imposed, the magistrate omitted to insert as a condition of suspension the words 'committed during the period of suspension' to reflect that the accused should not in future be convicted of the prohibited offence (assault with intent to do bodily grievous harm) committed during the period of suspension.
6. In the result, it is ordered that:
 1. The conviction is confirmed.
 2. The sentence is confirmed but amended to read as follows:

'2 (two) years' imprisonment of which 1 (one) year is suspended for a period of 5 (five) years on condition that the accused is not convicted of assault with intent to cause grievous bodily harm, committed during the period of suspension'.



JC LIEBENBERG

JUDGE



N N SHIVUTE

JUDGE