**REPUBLIC OF NAMIBIA**

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**IN THE HIGH COURT OF NAMIBIA, NORTHERN LOCAL DIVISION, OSHAKATI**

**REVIEW JUDGMENT**

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| **Case Title:***The State v Ndumingu Titus* | **CR No**.: 05/2020Case No.: 384/2019 |
| **Division of Court:** Northern Local Division |
| **Heard before:** Honourable Mr Justice January J *et*Honourable Ms Justice Salionga J | **Delivered on:**29 January 2020 |
| **Neutral citation:** *S v Titus* (CR 05/2020) [2020] NAHCNLD 12 (29 January 2020) |
| **The order:** 1. The conviction and sentence imposed are set aside;
2. The matter is remitted to the magistrate to question the accused pursuant to the provisions of section 112 (1) (*b*) of the Criminal Procedure Act, Act 51 of 1977 (the CPA).
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| **Reasons for the order:** |
| JANUARY J (SALIONGA J concurring):[1] The accused pleaded guilty to theft of 10 X N$10 recharge vouchers valued at N$100, 10 X N$5 recharge vouchers valued at N$50, a wallet valued at N$200 and cash money to the value of N$1250;[2] The magistrate disposed of the matter in terms of section 112 (1) (a) on request of the public prosecutor. It was in numerous reviews pointed out that section 112 (1) (*a*) is to be applied only in cases of a trivial nature.[3] All indications in the charge, in my view is indicative that this crime is not trivial. It seems that the complainant was selling recharge vouchers to make a living in all probability. The accused stole in all likelihood her income which amount to a combined amount of N$1600 from her. |
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|  H C JANUARY  JUDGE  |  J T SALIONGA JUDGE |