

REPUBLIC OF NAMIBIA



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

REVIEW JUDGMENT

Case Title: <i>The State v Ndumingu Titus</i>	CR No.: 05/2020 Case No.: 384/2019
	Division of Court: Northern Local Division
Heard before: Honourable Mr Justice January J <i>et</i> Honourable Ms Justice Salionga J	Delivered on: 29 January 2020
Neutral citation: <i>S v Titus</i> (CR 05/2020) [2020] NAHCNLD 12 (29 January 2020)	
The order: <ol style="list-style-type: none">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).	

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.

H C JANUARY
JUDGE

J T SALIONGA
JUDGE