**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:**  *S v Immanuel Matheus* | **CR No: 24/2019** | |
| **Division of Court:**  Northern Local Division | |
| **Heard before:**  Honourable Mr. Justice January J et  Honourable Ms. Justice Salionga J | **Delivered on:** 1 August 2019 | |
| **Neutral citation:**  *S v Matheus* (CR 24/2019) [2019] NAHCNLD 71 (1 August 2019) | | |
| **IT IS ORDERED THAT:**  1. The conviction and sentence are set aside.  2. The matter is remitted to the Magistrate’s Court Outapi for the magistrate to properly  question the accused in terms of s 112(1)(b) of the Criminal Procedure Act, 51 of 1977  and further deal with the matter in accordance with the law. | | |
| **Reasons for the above order:** | | |
| SALIONGA J (JANAURY J concurring):  [1] Accused stands charged with Assault with intent to do grievous bodily harm read with  the Combating of Domestic Violence Act 4 of 2003. He pleaded guilty and was  convicted accordingly.  [2] He was sentenced to 36 months imprisonment.  [3] When I received the record on review I queried the magistrate how did she satisfy  herself that the accused admitted all the elements of the offence if no question was  asked of his intention?  [4] In her reply the learned magistrate conceded to having omitted to question the  accused person of his intention to assault the complainant. She therefore requests  for the record to be reverted back to her for proper questioning.  [5] In my view the proposition is properly made and the matter is returned to the  magistrate to question the accused properly.  [6] The above order is made. | | |
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| J.T. SALIONGA  JUDGE | | H.C. JANUARY  JUDGE |