**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**.: 05/2020  Case 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). | | |
| **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 |