

REPUBLIC OF NAMIBIA



IN THE HIGH COURT OF NAMIBIA, NORTHERN LOCAL DIVISION

HELD AT OSHAKATI

LEAVE TO APPEAL RULING

Case Title: <i>S v Hango Sindano</i>	Case No.: HC-NLD-CRI-APP-SLA-2019/00056
	Division of Court: Northern Local Division
Heard before: Honourable Ms Justice Salionga J	Heard on: 6 February 2020 Delivered on: 13 February 2020
Neutral citation: <i>S v Sindano</i> (HC-NLD-CRI-APP-SLA-2019/00056) [2020] NAHCNLD 27 (13 February 2020)	
IT IS ORDERED THAT: <ol style="list-style-type: none">1. The respondent's point in limine is hereby dismissed;2. The application for leave to appeal by the State in terms of S 310 (1) read with 310 (2) of the Criminal Procedure Act 51 of 1977 is granted.	

Reasons:

SALIONGA J :

[1] The Criminal Procedure Act, Act 51 of 1977 as amended provides under section 310 (1) for an application for leave to appeal and section 310 (2) makes provision on how such an application may be brought to court. Section 310 (1) in this court's opinion is the enabling section whereas section 310 (2) is simply stating how an application for leave to appeal should be placed before court.

[2] The appeal was then lodged in terms of the correct sections and as such the respondent's argument cannot be entertained.

[3] The applicant has prospects of success. The Honorable court applied the wrong principles of law in reaching its conclusion that the evidence of the complainant in the matter had to be approached with circumspection.

[4] *S v Katamba 1999 NR 348 (SC)* is an authority for the abolition of the legal principles applied.

[5] Counsel for the respondent conceded that the wrong principles of law was applied save arguing that in general when evaluating the evidence of a single witness the court has to be cautious in any event.

[6] For the aforesaid reasons this court without considering the merits of the case, is of the view that another court may arrive at a different conclusion.

[7] In the result:

1. The respondent's point in limine is hereby dismissed;

2. The application for leave to appeal by the State in terms of S 310 (1) read with 310 (2) of the Criminal Procedure Act 51 of 1977 is granted.

Judge(s) signature

Comments: None

Not applicable

Counsel:

Applicant

Respondent

Mr Matota assisted by Mr Mundaburi
Office of the Prosecutor General, Oshakati

Ms Kishi
Dr Weder, Kauta & Hoeveka, Ongwediva