NOEL MARIMO
versus
MRS F MTOMBENI N.O
and
THE STATE

HIGH COURT OF ZIMBABWE
MUNGWARI J
HARARE; 28 July and 11 October 2022

Criminal review - unterminated proceedings

E Homera, for the applicant
T Kangai, for the State

MUNGWARI J: As will be illustrated, the manner in which this case was handled smacks of arbitrariness.

On 10 May 2022 the applicant (for the purposes of clarity herein after referred to as "the accused") appeared before the first respondent (hereinafter referred to as "the trial magistrate") sitting at Chivhu on a charge of attempted rape as defined in s 65 of the Criminal Law (Codification and Reform Act) [*Chapter 9:23*] (The Code) as read with s 189 of the Code. A reading of the record of proceedings shows that the accused had been summonsed to appear before the court. Trial commenced, with the accused who was not represented by a legal practitioner at that stage, pleading not guilty to the charge. At the beginning of the prosecution's case, the complainant, Esther Bwanya took to the witness stand. Among other issues, she stated that the accused's male organ had come into contact with her own. Immediately thereafter, the trial magistrate with the apprehension that the evidence revealed a more serious crime of rape ordered the trial to stop. She directed the prosecutor to charge the accused with what is described as "the correct charge." To the accused she put it as follows:

> "The evidence led shows a more serious charge of rape. The state will do the correct documents. We are taking an adjournment"

On the same day at 1200 hours the parties returned to court and the prosecutor was directed by the trial magistrate to serve the accused and the court with documents pertaining to the "correct charge" of rape. The trial magistrate once again proceeded and stated the following to the accused:

> "Like I explained in the morning, the state is now preferring a more serious charge of rape because of the evidence of the child led. You can be given ample time to go and reconsider also and prepare yourself for the charge of rape. It means you will also need to then give a new defense outline looking at the circumstances."

Despite having initially appeared in court on a summons as already said, it appears the accused was arbitrarily remanded in custody on the new charge of rape. Needless to say, there was no reason for the trial court's heavy handedness given that the accused had attended court on his own volition. The record of proceedings does not show why the accused was placed in custody. The prosecutor appears to have played no part in that decision. The accused himself was not given an opportunity to make representations. On 17 May 2022 the accused who had now engaged the services of the Legal Aid Directorate applied for bail in this court. The application was successful and he was released on bail pending trial on the rape charge. On 23 May 2022, he filed an application for review of the proceedings which had turned the attempted rape charge into allegations of full-fledged rape. On 24 May 2022 the application was served on both the trial magistrate and the prosecutor. On 30 May 2022 the accused appeared before the trial magistrate who advised him that the court would proceed with the rape trial. It gave 7 June 2022 as the trial date notwithstanding the pending application for review of the court's adoption of that procedure. Fearing the worst and in no doubt that commencement of the rape trial was imminent the accused on 2 June 20222, approached this court with an application on a certificate of urgency seeking a stay of his trial at Chivhu on CRB CHVR57/2022 pending the outcome of the review process he had initiated. I requested for a transcribed record of the attempted rape proceedings because the trial magistrate's handwritten notes were barely legible. It took more than I had anticipated to obtain the transcript. When it finally came, the second respondent and quite rightly so, advised me that it was not opposed to the relief that was being sought. On 15 June 2022, I entertained and granted the application for stay of the rape trial because I found that there were exceptional circumstances in the case which required this court's urgent intervention to prevent a serious miscarriage of justice. Unbeknown to me the rape trial had indeed commenced on 7 June 2022 as had been directed by the trial court. Fortunately for the accused, it then stalled following the order of this court of 15 June 2022.

This substantive application for review in HC3412/22 was subsequently placed before me for determination within the timelines that all parties had agreed to at the time I heard the urgent application for stay of the rape proceedings.

The applicant filed the application in terms of s 27 of the High Court Act [*Chapter 7:06*] (The Act) as read with r 62 of the High Court Rules 2021 (The Rules). He seeks a review of the trial court's decision to abandon his trial on a lesser charge of attempted rape midstream and converting it to the more serious charge of rape. The order sought is couched as follows:

IT IS ORDERED THAT:

"1 The application for review be and is hereby granted

2 The order and advice by 1st respondent to the 2nd respondent to alter the charge from attempted rape to rape be and is hereby set aside

3. A trial de novo is hereby ordered before a different magistrate

4. There shall be no order as to costs.

The accused based his application on the grounds that:

1. The magistrate grossly erred and committed an irregularity by stopping his criminal trial on a charge of attempted rape and advising prosecution to charge him with a correct charge without referring the matter to the prosecutor general in compliance with section 54 of the magistrates court Act [Chapter 7:10]
2. The magistrate displayed bias against applicant by usurping the functions of prosecution and further making an indirect decision on the correctness of the charge without affording him an opportunity to cross examine the complainant. Her advice to prosecution displayed bias against him in favor of the complainant."

The second respondent once again indicated that it did not oppose the application.

On another noteworthy indiscretion by the trial court, there appears at p 15 of the record of proceedings what is indicated as a response to the application for review. I am not sure who or what prompted the response. From a reading of it however I was on one hand tempted to assume that the magistrate was responding to the application for review that had been served upon her. If she was, the opposition to the application goes against the essence of this court's decision in *S & Anor* v *Sparkles Services (Pvt) Ltd. & Anor* (HH 135 of 2017, which cautioned judicial officers against responding to applications for review of their decisions in a manner which betrays their personal interest in the proceedings. It held that:

> "It is most undesirable that any arbiter or other adjudicator of a dispute should appear to be pitching camp with, or rendering assistance to, one of the contestants to the dispute before him. For the other party is likely to gain that impression that the arbiter and his adversary are conspiring against him. And such an impression would reinforce his belief that the arbiter is biased against him. See the remarks of McNally JA in *Blue Ribbon Foods Ltd* v *Dube NO & Anor* 1993 (2) ZLR 146 (S) at 148. When the arbiter makes common cause with one of the parties in such proceedings, any facade of justice is shattered; the arbiter is seen to have descended into the arena with the possible consequential blurring of his vision by the dust of

battle. Unconsciously, he deprives himself of the advantage of calm and dispassionate observation."

On the other hand and on a closer analysis it also looked like the magistrate was delivering a ruling on an application which had been made to her by the accused. It is signed and dated 1 June 2022. Either way, the procedure adopted seems unorthodox. That however is a discussion for another day. Why I make reference to the trial magistrate's response is that it has been made a part of the proceedings. Below I restate it in full because it gives an insight into the trial court's reasoning in adopting the incomprehensible procedure it followed. The response reads:

RESPONSE TO APPLICATION FOR REVIEW

"It is true that the applicant came to court on a charge of attempted rape. Evidence was led and it pointed to a more serious charge of rape. Court stopped trial and advised the State to charge of correct charge or amend the charge. The applicant was advised of this and given ample time to go and prepare his defence.

The court was guided by the Magistrates Court Act Chapter 7.10 Section 54 (1) as applied by the defence provides for a scenario where the trial court has no jurisdiction to try new offences. In the current scenario this court has a jurisdiction as a regional court to try the case for rape. It therefore follows the court cannot ask for increased jurisdiction which it already has.

This court did what is prescribed in the law. It stopped trial at the instance of the court.

-it then advised accused of the changed circumstances

-it adjourned matter to give accused ample time to prepare for the more serious charge he was now facing.

The application is simply meant to waste time and delay the interest of justice because the laws is very simple.

Section 54 (1) of the Magistrates Court Act Chapter 7.10 provides that, 'when in course of a trial whether or not any evidence has been led, it appears that the offence is from its nature ONLY subject to the jurisdiction or more proper for the cognizance of court of greater jurisdiction or when the public prosecutor so request the Magistrate shall stop the trial immediately adjourn the case and remand the accused and submit a report to the Prosecutor General together with copy of record of proceedings in the case.'

The courts understanding of the Section is,

- Where trial has commenced
- There must be evidence that will show that, the case is a more serious offence and that,
- The trial court *has no* jurisdiction
  (a) To deal with the trial
  (b) To then pass sentence after conviction. This is not what is obtaining in this case. Hence there is no reason for court to follow the procedure that the defence is talking about, also no reason for recusal"

I am taken aback by a number of the trial court's views as expressed above. In the first paragraph of the response, the court seemed to justify its procedure on the basis that it had the authority to direct the prosecution to correct or amend the charge. In the second paragraph, it made a volte-face and stated that the procedure was explainable in terms of s 54 (1) of the Magistrates' Court Act. After stating its interpretation of the provisions of s 54 (1) it rounded of by declaring that *"the application is simply meant to waste time and delay the interest of justice because the laws is very simple."*

From the above, it may well be that the trial magistrate conflated three different procedures namely amendment of charges, stopping and conversion of trial before conviction and stopping and conversion of trial after conviction. I also wish to restate here, firstly that a judicial officer must always refrain from approaching an application made by a litigant appearing before him/her with disdain. Litigants are permitted to make applications which are lawfully provided for in our criminal procedure. Where a court deals with a litigant's application in a contemptuous manner, it will be difficult if not impossible to escape allegations of bias. Secondly, the approach that the law is simple is a pitfall which must be avoided. To the contrary, the law is a complex phenomenon which everyone who practices it must continuously strive to keep abreast of.

The issue

The issue for determination in this application is whether the procedure that was adopted by the trial court in this instance is permissible. Put in another way, can a trial court order that a trial which has already commenced must:-

a. Stop because a lesser charge was preferred against the accused yet the evidence shows a more serious crime; and
b. On its own accord direct prosecution to prefer a more serious charge which it thereafter proceeds to try the accused on and
c. Whether the trial magistrate exhibited any bias against the accused person?

The law on review

The power of this court to review criminal proceedings of the Magistrates' Court at any stage is undoubted. On one hand s 29 of the High court Act [*Chapter 7: 06*] grants this court extensive powers to review such proceedings. Section 27(1) on the other prescribes the basis upon which this court can ground those powers of review. They are absence of jurisdiction,

bias and gross irregularity in the proceedings or decision complained of. These are again settled propositions of law in this jurisdiction.

In practice the court has never hidden its discomfort in interfering with unterminated proceedings of the lower courts. The power is only exercised where not to do so will result in a miscarriage of justice. The Supreme Court has also repeatedly spoken against superior courts interfering with unterminated proceedings of inferior courts and tribunals except in instances where there are exceptional circumstances to do so. In *Attorney-General* v *Makamba* 2005 (2) ZLR 54 (S) MALABA JA (as he then was)) had this to say at 64 C:

> "The general rule is that a superior court should interfere in uncompleted proceedings of the lower courts only in exceptional circumstances of proven gross irregularity vitiating the proceedings and giving rise to a miscarriage of justice which cannot be redressed by any other means or where the interlocutory decision is clearly wrong as to seriously prejudice the rights of the litigant."

See also *Prosecutor General of Zimbabwe* v *(1) Intratek Zimbabwe (Private) Limited (2) Wicknell Munodaani Chivayo (3) L Ncube* SC 67/20 where MAKARAU JA (as she then was) expressed the same point in a different way at p. 8 of the cyclostyled judgment in the following manner:

> "Thus, put conversely, the general rule is that superior courts must wait for the completion of the proceedings in the lower court before interfering with any interlocutory decision made during the proceedings. The exception to the rule is that only in rare or exceptional circumstances where the gross irregularity complained of goes to the root of the proceedings, vitiating the proceedings irreparably, may superior courts interfere with on-going proceedings. The rationale for the general rule may not be hard to find. If superior courts were to review and interfere with each and every interlocutory ruling made during proceedings in lower courts, finality in litigation will be severely jeopardised and the efficacy of the entire court system seriously compromised."

I remain as alive to that requirement just like I was at the time I granted the order staying the continuation of the rape proceedings resulting from the conversion of the accused's attempted rape trial. As will be illustrated below, these proceedings cannot be allowed to stand.

The law on stopping and conversion of trials

The law which empowers magistrates to stop and convert trials is, as properly pointed out by the trial magistrate, found in s 54 (1) of the Magistrates' Court Act [C*hapter 7:10*]. It states that:

> **"54 Stopping and conversion of trials**
> (1) When in the course of a trial, whether or not any evidence has been led, it appears that the offence is from its nature only subject to the jurisdiction or more proper for the cognisance of a court of greater jurisdiction, or when the public prosecutor so requests, the magistrate shall stop the trial and immediately adjourn the case and remand the accused and submit a

> report to the Prosecutor-General, together with a copy of the record of the proceedings in the case."

Broken down, the procedure outlined in the above provision appears elaborate. It requires the trial magistrate faced with such circumstances to:

a. Stop the trial and
b. Adjourn the case and
c. Remand the accused and
d. Draw up a report and submit it together with a copy of the record of proceedings to the prosecutor-General

There is no room for cutting corners. The use of the word 'shall' means the procedure is mandatory once a magistrate formulates the opinion that the stopping and conversion of the trial is necessary. It is critical to note that the four stages which must be followed are co-joined by the conjunctive and. What that means is that the process is a combination of the four separate stages all of which must be performed. It is an irregularity for a magistrate purporting to follow the above procedure to cherry pick the stages which to adopt and which to discard. For instance a magistrate cannot choose to stop the trial and adjourn the case but refuse to draw up and submit a report to the prosecutor-general. The procedure is a composite one. To put this provision into its proper context, it must be read together with Part X111 of the CP& E Act in ss 225 and 226 which provide that.

> **"PART XIII**
> PROCEDURE IN RESPECT OF CASES ADJOURNED UNDER SECTION 54 OF MAGISTRATES COURT ACT [*CHAPTER 7:10*]
>
> **225 Powers of Prosecutor-General**
> Where a magistrate has adjourned a case and submitted a report to the Prosecutor-General in terms of section 54 of the Magistrates Court Act [*Chapter 7:10*], the Prosecutor-General may—
> (a) if the magistrate acted in terms of subsection (1) of that section, in writing—
> (i)
> [Subparagraph repealed by section 16 of Act 9 of 2006.]
> (ii) direct that the case be continued by such magistrate; or
> (iii) where such magistrate is not a regional magistrate, direct that proceedings be commenced afresh in the court of a regional magistrate; or
> (*b*) if the magistrate acted in terms of subsection (2) of that section, in writing direct that the case—
> (i) be transferred to the High Court for sentence; or
> (ii) be continued by such magistrate.
>
> **226 Duties of magistrate**

> Upon the receipt of the Prosecutor-General's direction in terms of section *two hundred and twenty-five* the magistrate shall cause the accused or the person convicted, as the case may be, to be informed of the Prosecutor-General's decision and shall—
> (*a*) where the Prosecutor-General has given a direction in terms of subparagraph (i) or (ii) of paragraph (*a*) of that section, comply with that direction; or
> (*b*) where the Prosecutor-General has given a direction in terms of subparagraph (iii) of paragraph (*a*) of that section, grant a warrant committing the accused to prison, there to be detained till brought to trial before the court of a regional magistrate or till admitted to bail or liberated in due course of law;"

The above provisions clothe the prosecutor-general with quasi-judicial functions. He is for instance, by inference from s 225 (a) (iii) allowed to quash proceedings which have already commenced. He can then direct those proceedings to start afresh in the court of a regional magistrate. Previously the prosecutor-general was permitted to turn any such proceedings into a preparatory examination. The procedure of preparatory examinations has however since been discontinued in this jurisdiction. It is for those reasons that a magistrate must not view the requirements of s 54 (1) lightly. Once a decision to stop the proceedings has been arrived at, the court is required to explain to the accused clearly and fully why that course of action is being taken. The trial is then adjourned. I understand the phrase adjournment of trial to mean a suspension of court proceedings. It follows therefore that the proceedings are not terminated at that stage. A criminal trial which has commenced can only be terminated in one or the others of the specified ways in which a trial can be concluded. The next step is for the magistrate to remand the accused. This stage means that the court must give the accused a date on which he is required to return to court despite the suspension of his trial. Finally the magistrate must compile a report addressed to the prosecutor-general. The report is critical because it guides the course of action which the prosecutor-general will take. It advises him of the reasons why the magistrate is of the view that a more serious charge ought to have been preferred. It is the basis upon which he formulates his own opinion on the matter. See the case of *S* v *Julieta* 1998(1) ZLR 432.[1] The report is submitted to the prosecutor-general together with the record of proceedings.

A court seized with a matter cannot quash its own proceedings for whatever reason. The proceedings of a magistrate's court can only be quashed by the High Court or the Supreme Court in appropriate circumstances. It is not proper for a court in the midst of a trial to abandon its proceedings and on its own accord convert them into some other form. Put differently, a

[1] Although the court was dealing with the provisions of s 54(2) the principles remain the same

magistrate of whatever level is not permitted to convert the trial of an accused on one crime into his/her trial on an entirely different charge. If that route is desired, the court must follow the procedure outlined in s 54(1) of the Magistrates' Court Act. For the removal of any doubt I must state that the requirement applies equally to the court of a regional magistrate regardless of whether or not it has jurisdiction to try the more serious offence apparent from the evidence presented in court. The rationale for that is not difficult to imagine. Once an accused has been called upon to plead to a charge, he is entitled to demand an acquittal or a conviction by the judge or magistrate before whom he has pleaded. The only instances where the accused cannot demand a verdict are provided for by law. One of those is where the court proceeds in terms of s 54(1).[2] That opportunity to demand a verdict is not presented to an accused where the court simply abandons his/her trial, bury the proceedings and asks the accused to plead to another charge.

Gross irregularity in the proceedings

In this case, the trial magistrate did not follow the procedure demanded by s 54(1). She did not stop but abandoned the proceedings where the accused had pleaded not guilty to the charge of attempted rape. The court then directed the prosecutor to correct the charge. In other words she instructed the prosecutor on what charge to prefer. The prosecutor obliged and preferred the more serious charge of rape. The simple question which both the trial magistrate and the prosecutor should have asked themselves when adopting that botched procedure is what would happen to the attempted rape proceedings? Could they just be discarded like they were? Maybe the prosecutor could be exonerated because the record of proceedings does not show his involvement in any way. It equally does not show that the accused was given an opportunity

[2] The others are where:

- The accused has pleaded not guilty but no evidence has been led, the trial may be continued before another judge or magistrate. The same applies where the accused has pleaded guilty and no evidence has been led and no inquiry has been made in terms of section 271(2) (b) of the CP & E Act.
- The judge or magistrate recuses himself from the trial.
- Where a separation of trials takes place.
- Where, after evidence has been led, the judge or magistrate dies, retires, resigns or is dismissed.
- Where, after evidence has been led, the judge or magistrate dies, retires, resigns or is dismissed.

to say anything. It was a unilateral approach by the trial court. The prosecutor was directed to prefer the 'correct charge' and the accused was instructed to prepare to answer the 'correct charge.' A little while after those instructions the prosecutor then returned to court armed with the correct charge. The one-sided process illustrates a failure on the part of the trial magistrate to appreciate even the role of a prosecutor in a criminal trial. She failed to understand her duty to explain to an unrepresented accused person his rights and obligations in this trial. She completely misinterpreted the provisions of s 54(1) to the extent that she thought the section gives her power to act in an arbitrary manner by jumping from one trial to another as and when she wished because she had jurisdiction to preside over the more serious offence. Those missteps were gross. In fact they were so gross as to vitiate everything that happened from the moment the attempted rape proceedings were discarded. What happened thereafter is a process which cannot be allowed to stand.

Amendment of charge by court

Although the issues discussed above are dispositive of this application I indicated that one of the reasons which led to this confusion is that the trial magistrate conflated different procedures, some of which were not applicable to the circumstances of the case before her. The process of amending a charge is totally distinct from the procedure under s 54(1). The power of a court to amend a charge is derived from s 202(1) of the CP & E Act. That provision is clear that a court seized with a criminal case can in appropriate circumstances amend an existing charge. I understand the word amend to mean the making of minor changes or additions designed to improve or make a charge more accurate. It refers to tweaking a charge which is already before the court. My view therefore is that it does not permit a court to substitute that charge with a completely new crime.

In this case if the trial magistrate thought she was proceeding in terms of s 202(1) then her directive that the charge of attempted rape be substituted with another of rape fell afoul of my interpretation of the provision as explained above.

Alteration of charge by court

The prosecutor reserves the entitlement to prefer charges against an accused. The rule does not however mean that the judicial officer trying the matter must adopt a hands off approach. The principle that the state is *dominis litis* is not without limits. The court has a duty to require a prosecutor to at least explain why a less serious charge was preferred where the charge and its facts as they appear on the prosecution papers show that a more serious charge

should have been pressed. Prof G. Feltoe in his work titled *The Magistrates Handbook,* 2021 ed. At p. 156 outlined the powers of the court with regard to alteration of a charge. He stated the following:

> "It is not in the interests of justice that a person should be charged with a lesser offence when the admitted facts show that he/she is guilty of a more serious charge. In such an event, the trial court should at least query why X is being charged only with the less serious charge. Thus if the State allegations clearly suggest that X has committed the crime of assault with intent to do grievous bodily harm but the State has brought only a charge of common assault against X, the magistrate should question the prosecutor on why the lesser charge has been preferred. Similarly, the magistrate should query why a person has only been charged with contravening s 45(1) of the Road Traffic Act [*Chapter 13:11*] if the evidence discloses a contravention of s 46(1) of this Act: *Chidodo & Anor* 1988 (1) ZLR 299 (H)".

Whilst the learned author did not proffer any indication of what should happen after a court has queried the propriety of the charge in such circumstances, what is clear is that he was referring to those queries which are raised before the accused has pleaded to the charge. This court in the case of *Sabawu & Anor* v *The State* 1999 (2) ZLR 314 (H) went further than that. It stated that prosecutors must exercise great care when preferring charges so as to ensure that offenders are charged with the correct charges and not wrongly charged with lesser crimes. More critically it held that magistrates must not accept the charges without question and that where it appears during trial that the evidence shows a more serious offence than the one charged, the magistrate must stop the trial in terms of s 54(1) of the Magistrates Court Act and refer the matter to the prosecutor-general. Once the trial had commenced the trial magistrate was left with only one option. She had to stop the trial in terms of s 54(1) and follow the procedures already explained above.

Bias

In *S* v *Mutizwa* HB 4/2006 this court, in explaining the requirements which must be proved where judicial bias is alleged noted that it is a trite rule of law that no person who has an interest in or harbours any prejudice in respect of the matter to be tried should adjudicate on such matter. It added that the principle involved in an application for recusal is that no reasonable man should, by reason of the situation or action of a judicial officer, have grounds for suspecting that justice will not be administered in an impartial and unbiased manner.

Mutizwa and other authorities have prescribed the requirements which must be met by a litigant who wishes to rely on judicial bias. They can be summarised as:

a. There must be a suspicion that the judicial officer might be, not would be, biased
b. The suspicion must be that of a reasonable person in the position of the accused

c. The suspicion must be based on reasonable grounds
d. The suspicion is one which the reasonable person referred to would, not might, have

In this case, the allegations of bias against the trial magistrate arise from her misinterpretation of the provisions of s 54(1) of the Magistrates Court Act. That in my view is not sufficient to constitute bias. Judicial officers are employed to interpret the law. That is a core function. In that process they are prone to making mistakes. It would be senseless and utterly unreasonable to attribute every such error to bias. In fact the half-hearted manner in which counsel for the applicant motivated this aspect of the application betrays a lack of seriousness. The issue appears to have been raised with no serious intention of obtaining relief on it.

The test for bias on the part of a judicial officer is objective: whether as a matter of fact, there is a real likelihood of bias, or whether there is a reasonable belief that a real likelihood of bias exists. In either case a party alleging bias must show a reasonable fear based on objective grounds that the trial will not be impartial.

The applicant did not start to prove any of the requirements stated above. The accused's assertion that because the presiding magistrate was mistaken in the procedure she adopted is not a sufficient ground for alleging bias.

Disposition

It has been demonstrated that the present matter is one of those exceptional cases where grave injustice might result if this court refuses to interfere with the unterminated proceedings in the court *a quo*. The trial court failed to follow the proper procedure. The accused was arbitrarily subjected to a multiplicity of charges when the magistrate directed that he be hauled before her on a new charge emanating from the same facts which formed the charge which he had already pleaded to. In essence the accused is facing two separate charges based on the same set of facts in the same court under the same CRB No. CHVR 57/2022. A trial court which simply abandons a lesser charge to which an accused would have already pleaded and directs prosecution to prefer a more serious charge usurps the functions and powers reposed in the prosecutor-general by s 225 of the CP&E Act. That is an illegality. The commencement of the rape proceedings before the trial magistrate was borne out of an illegal process. Those proceedings were therefore grossly irregular. In fact, they are a nullity. In the circumstances, IT IS ORDERED THAT:

1. The application for review succeeds

2. The proceedings under which the applicant is charged with RAPE on CRB No. CHVR 57/22 which had commenced before the first respondent be and are hereby quashed in their entirety
3. The first respondent is directed to continue with the trial of the applicant on the charge of ATTEMPTED RAPE on CRB No. CHVR 57/22 and to follow the procedure in s 54(1) of the Magistrates Court Act if the circumstances so require
4. There shall be no order as to costs.

MUTEVEDZI J: …….AGREES