

ABISHA CHARAKUPA
versus
THE STATE

HIGH COURT OF ZIMBABWE
HUNGWE AND BERE JJ
HARARE, 14 January 2014

Criminal appeal

S. Banda, for the applicant
E. Makoto, for the respondent

HUNGWE J: The appellant was convicted of indecent assault as defined in s 67 of the Criminal Law (Codification and Reform) Act [*Cap* 9:23]. He was sentenced to a fine of \$200 or 20 days imprisonment.

He now appeals against both conviction and sentence.

The sole ground of appeal is that the court erred in convicting the appellant when there was no evidence sufficient to justify the conviction. In support of this ground, reference was made to the delay in making a police report. It was also argued that she was motivated by malice to concoct false evidence against the appellant as she was aggrieved by her demotion from a higher post to a lower post.

The evidence does not bear out the suggestion by the appellant. First the appellant explained that she decided to give a report to the incident to her husband and hear his advice. She reported to her husband the same night. So in fact there is no delay in the making of the report at all in my view. Being a married woman, it understandable that she chose to make the report to her husband first so that whatever decision is made becomes a family decision, a joint decision. The decision was that she reports to Human Resources Office in Harare first. This explains the delay in the making of the police report.

The second ground of attack that she was, in reporting the violation, motivated by malice is not borne out by the facts. The complainant reported to her husband well before news of her demotion was relayed to her by one of the members of staff. Secondly, to her knowledge it was not appellant who made the decision to demote her but the Human

Resources Office in Harare. In any event, appellant did not even relay the news personally to her; someone else did.

The magistrate correctly warned himself against the dangers of convicting on the uncorroborated evidence of a single witness, being the complainant in a sexual offence and found that her evidence was not only credible but also corroborated by other evidence. He wrote out his judgement in a methodical and well thought manner.

He cannot be faulted in any way. The conviction cannot be faulted and is confirmed.

As for sentence, no submission attacking sentence was made. There is no basis to interfere with it.

On the result the appeal is dismissed in its entity.

BERE J agrees _____

J Mambara & Partners, applicant's legal practitioners
Attorney General's Office, respondent's legal practitioners