

IN THE SUPREME COURT OF ZAMBIA

SCZ Appeal Nos. 90-92 of 1993

HOLDEN AT LUSAKA

(Criminal Jurisdiction)

ROBINSON MANASE
BONANZA FARMS LTD
JAHANGIR MOHAMED PATEL

Appellant

VS

THE PEOPLE

Respondent

CORAM: Sakala, Chaila and Musumali J.J.S.

26th August, 1993.

For the Appellant, Mr. Patel and Mr. E. Mukuka of Mukuka and Co. Kabwe

For the State, Mr. E. Sewanyana, Assistant Senior State Advocate

J U D G M E N T

Chaila, J.S. delivered the judgment of the court.

This appeal comes out of the proceedings between Robinson Manase and the People. Mr. Manase was prosecuted in the Subordinate Court for stock theft. He was acquitted after trial and the Director of Public Prosecutions being dissatisfied with the acquittal filed a notice of appeal against the decision of the lower court. The appeal did not take off in time and proceedings for restitution commenced. The High Court Judge made a ruling that while the appeal by the Director of Public Prosecutions was in progress the animals in question were to be kept at a farm called Bonanza farms near Kabwe. The animals were duly kept at that farm. When an order for restitution was made Mr. Manase requested the police to get the animals from the farm. He got some of the animals and according to the affidavits he did not get the offsprings. He took out proceedings for contempt against the police, as well as against the appellant, the Manager of Bonanza farms. After the proceedings the learned High Court Judge found that the appellant was guilty of contempt

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and sent him to prison. His Advocate applied to the Supreme Court to have the order set aside and the order was granted but the lower court disagreed with the ruling of the Supreme Court. The appellant being dissatisfied with the ruling of the High Court appealed to the Supreme Court. The State has not supported the finding of guilt in respect of the contempt. We agree with the steps taken by Mr. Sewanyana. The facts did show that the appellant, when the offence involving Mr. Manase was committed and when Mr. Manase was being tried in the Subordinate Court Mr. Patel was not even in the country. He was not a party to the arrangements made by the police and the court. The evidence shows that he did not do anything that could amount to disrespect of any court order. In any event the record shows that the Director of Public Prosecutions did file an appeal and the appeal is still pending. Since the appeal is still pending, there could not be any contempt committed. We agree with Mr. Mukuka's argument that there was no contempt committed. The order made by the High Court Judge is set aside. The appeal is allowed, we quash the order for contempt.

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E.L. Sakala
SUPREME COURT JUDGE

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M.S. Chaila
SUPREME COURT JUDGE

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C.M. Musumali
SUPREME COURT JUDGE