



HRDs Alert

8 October 2020

ZIM COURT ORDERS RELEASE OF MAMOMBE FROM PRISON AS JUDGE CENSURES MAKWANDE FOR CURTAILING HER LIBERTY

HIGH Court Judge Justice **Esther Muremba** on Wednesday 7 October 2020 ordered the release from prison of Harare West constituency legislator Hon. **Joanah Mamombe**, where she had been incarcerated for close to two weeks on the orders of Harare Magistrate **Bianca Makwande**.

Magistrate Makwande on Thursday 24 September 2020 ordered Hon. Mamombe to have her mental aptitude examined by two “neutral” doctors while being detained at Chikurubi Maximum Security Prison.

Magistrate Makwande granted the order after Prosecutor **Michael Reza** filed an application seeking to have Hon. Mamombe examined in accordance with provisions of the Mental Health Act after she recently failed to appear in court to stand trial on charges of communicating falsehoods prejudicial to the state.

The Magistrate said Hon. Mamombe should be placed under the supervision of the Superintendent of Harare Remand Prison while some “neutral doctors” evaluate her mental aptitude before her trial commences.

But Hon. Mamombe’s lawyers **Alec Muchadehama**, **Jeremiah Bamu**, **Tinomuda Shoko** and **Roselyn Hanzi** of Zimbabwe Lawyers for Human Rights on 25 September 2020 filed an application for review and an urgent chamber application at the High Court seeking a review of Magistrate Makwande’s decision to imprison the Harare West constituency legislator and arguing that her detention was unlawful and an infringement of her right to liberty provided in the Constitution.

On Wednesday 7 October 2020, Justice Muremba agreed with Hon. Mamombe’s lawyers and ordered that she be immediately released from Chikurubi Maximum Security Prison, where she had been incarcerated for 13 days.

In her judgment, Justice Muremba ruled that it was not necessary for Magistrate Makwande to place Hon. Mamombe in custody for purposes on being medically examined in terms of the Health Mental Act as she could have ordered her to undergo the examination whilst out of custody.

The Judge noted that Hon. Mamombe had not breached her bail conditions and nothing warranted her placement in prison custody for the purposes of her mental examination.

Hon. Mamombe, Justice Muremba ruled, could still have been ordered to undergo the mental examination as a state institution by the state's medical practitioners.

The Judge stated that there was no just cause for placing the opposition legislator in custody thereby depriving her of her personal liberty, which is jealously guarded in the Constitution.

Nonetheless, Justice Muremba ordered that Hon. Mamombe should still comply with Magistrate Makwande's order that she be examined by two doctors at Harare Remand Prison.

Hon. Mamombe who had been out of custody on bail, was arrested by Zimbabwe Republic Police members together with opposition MDC-Alliance party Youth Assembly leaders **Cecelia Chimbiri** aged 31 years and **Netsai Marova** aged 25 years on 10 June 2020 and charged with publishing or communicating false statements prejudicial to the state as defined in section 31(a)(ii) of the Criminal Law (Codification and Reform) Act and publishing or communicating false statements prejudicial to the state as defined in section 31(a)(iii) of the Criminal Law (Codification and Reform) Act.

The trio was also charged with defeating or obstructing the course of justice as defined in section 184(1)(f) of the Criminal Law (Codification and Reform) Act.

Hon. Mamombe, Chimbiri and Marova went missing on 13 May 2020, when they were abducted in Harare and were only found on 15 May 2020 after being dumped in Bindura in Mashonaland Central province.

The trio has already been charged with committing public violence after they were arrested on 26 May 2020 for allegedly participating in an anti-government protest against hunger during the national lockdown period as defined in section 37 of the Criminal Law (Codification and Reform) Act and for contravening section 5(3) (a) as read with section 5(1) of Statutory Instrument 99 of 2020 of Public Health (COVID-19 Prevention, Containment and Treatment) (National Lockdown) Order, 2020.

ENDS

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