

SOUTH AFRICA / JUDGMENT

Mandla Sithole v The State (20393/2014) [2015] ZASCA 106 (19 August 2015)

[2015] ZASCA 106

COURT

Supreme Court of Appeal

BEFORE

Mhlantla, Tshiqi, Dambuza

CASE / FILE NUMBER

20393/2014

Source: saflii.org · Research copy typeset by Esheria. Not court-issued or certified.

SUPREME COURT OF APPEAL OF SOUTH AFRICA

JUDGMENT

Not Reportable

Case No: 20393/2014

In the appeal between:

MANDLA SITHOLE

First Appellant

and

THE STATE

Respondent

Neutral citation: Mandla Sithole v The State (20393/2014)

[2015] ZASCA 106 (19 August 2015).

Coram: Mhlantla, Tshiqi and Dambuza JJA

Heard: 19 August 2015

Delivered: 19 August 2015

Summary: Criminal Procedure – appeal against refusal to grant leave to appeal on petition – whether leave to the high court ought to have been granted.

ORDER

On appeal from: Gauteng Division of the High Court, Pretoria (Mavudla J and Mabena AJ sitting as court of appeal):

1 The appeal is upheld.

2 The order of the high court is set aside and replaced with the following:

‘The applicant is granted leave to appeal to the Gauteng Division of the High Court against his conviction of two counts of murder in the Regional Court, Standerton, Mpumalanga.

3 The matter is remitted to the court a quo to entertain the merits of the appeal.

Mhlantla JA (Tshiqi and Dambuza JJA concurring):

- [1] This is an appeal against the refusal by the Gauteng Division of the High Court, Pretoria of the appellant’s application for leave to appeal to that court against his conviction of two counts murder in the Regional Court, Standerton, Mpumalanga (refusal of his petition). The appeal is with leave of the court a quo.
- [2] The conviction on the two counts of murder arose out of a traffic incident which occurred on 4 April 2009 at Charl Cilliers and which resulted in the death of Ms Jeaneth Nontlantla Ngema and Mr Vusimuza Petrus Ngema (the driver of one of the motor vehicles involved in the collision). The appellant was the driver of the other motor vehicle involved in the collision.
- [3] Both the State and the appellant adduced evidence. At the end of the trial, the appellant was convicted on both counts of murder. He was sentenced to eight years’ imprisonment on each of the counts. The court ordered the sentences to run concurrently.
- [4] On 18 April 2012, the appellant applied for leave to appeal against conviction and sentence. His application was partially successful in that the Regional Magistrate granted leave against sentence only. Aggrieved by the outcome of his application, the appellant lodged his petition in the high court on 3 November 2012 and applied for leave to appeal to this court against the refusal of his petition in respect of the convictions. On 19 July 2013, the high court granted the appellant leave to appeal against the refusal of his petition. This court therefore has jurisdiction to entertain the appeal since leave to appeal was granted before the Superior Courts Act 10 of 2013 came into operation.[1]
- [5] The issue before this court is whether the high court ought to have granted leave to appeal against the convictions.
- [6] Before us, counsel for the State correctly conceded that the appellant has reasonable prospects of success on appeal against his conviction on the two murder charges. I agree with the submission that the appeal on the merits is arguable. In the result the order by the high court cannot stand and has to be set aside. The appeal must therefore succeed.
- [6] In the result the following order is made:

NZ MHLANTLA

JUDGE OF APPEAL

APPEARANCES:

For Appellant: P Pistorious

Instructed by: Van Zyl Le Roux Inc

Pretoria

c/o Honey Attorneys

Bloemfontein

For Respondent: P Voster

Instructed by: Director of Public Prosecutions

High Court

[1] S v Khoasasa 2003 (1) SACR 123 (SCA) at paras 14 and 19 – 22; S v Tonkin 2014 (1) SACR 583 (SCA).

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZASCA/2015/106.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/mandla-sithole-v-the-unknown-topic-asca-2015>

Prepared on 11 October 2026 · Esheria