

SOUTH AFRICA / JUDGMENT

Matube v S (Leave to Appeal) (CC76/2016) [2024] ZAGPPHC 1110 (18 October 2024)

[2024] ZAGPPHC 1110**COURT**

North Gauteng High Court, Pretoria

BEFORE

Strijdom

CASE / FILE NUMBER

CC76/2016

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Source record**IN****THE HIGH COURT OF SOUTH AFRICA****GAUTENG DIVISION,****PRETORIA****CASE****NO: CC76/2016****DATE:**

18-03-2024

(1)

REPORTABLE: YES/NO

(2)

OF INTEREST TO OTHER JUDGES: YES/NO

(3)

REVISED.

DATE:

18/10/2024

SIGNATURE:

In

the matter between

TLADINYANA

JACOB MATUBE

Applicant

and

THE

STATE

Respondent

JUDGMENT**LEAVE TO APPEAL**

STRIJDOM, J: The court then proceed with the ex-tempore judgment in this application for leave to appeal against sentence:

1. This is an application for leave to appeal against the sentences that this court imposed on 28 July 2017.
2. The accused was sentenced as follows:
 - 2.1 Count 1, theft. Six years' imprisonment.
 - 2.2 Count 2, murder. Life imprisonment.
 - 2.3 Count 3, murder. Life imprisonment.
 - 2.4 Count 4, attempted murder. Five years' imprisonment.
 - 2.5 Count 5, attempted murder. Five years' imprisonment.
 - 2.6 Count 6, unlawful possession of a firearm. Four years' imprisonment.
 - 2.7 Count 7, unlawful possession of ammunition.
Three years' imprisonment.
3. It was ordered that the sentences run concurrently.
4. The accused was declared unfit to possess a firearm.
5. Condonation is granted for the late filing of the application for leave to appeal.
6. The applicant's grounds of appeal are set out in the application for leave to appeal. The court is not going to repeat that.
7. In this matter the court found that the two murders were committed, were pre-planned or premeditated and that no substantial or compelling circumstances exist to deviate from the minimum prescribed sentence of life imprisonment. The accused has pleaded not guilty on the murder charges and the attempted murder charges and showed no remorse when he testified in mitigation of sentence.

Now in section 17(1) of the Superior Courts Act, 10 of 2013 provides that:

"Leave to appeal may only be granted where the judge or judges concerned are of the opinion that the appeal would have a reasonable prospect of success or if there is some compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration."

10. It is clear that the threshold for granting leave to appeal against a judgment of a high court has been raised in the new Act. The use of the word 'would' in the new Act indicates a measure of certainty that another court will differ from the court whose judgment is sought to be appealed against.
11. In respect of all the grounds of appeal raised by the applicant my judgment deals with facts and the law as presented by the parties and how the court arrived at each conclusion on the contentions raised by the parties.
12. When the facts and the law were examined, there is in my view no sound or rational basis for the conclusion that the appeal would have a reasonable prospect of success.

13 In the result the following order is made:

ORDER

1. Condonation is granted.
2. The application for leave to appeal against sentence is dismissed.

STRIJDOM, J

JUDGE OF THE HIGH COURT

DATE:

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Prepared on 9 October 2026 · Esheria