

SOUTH AFRICA / JUDGMENT

Panayiotou and Others v S (CC26/2016) [2018] ZAECPEHC 21 (17 May 2018)

[2018] ZAECPEHC 21

COURT

Eastern Cape High Court, Port Elizabeth

BEFORE

Chetty

CASE / FILE NUMBER

CC26/2016

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IN

THE HIGH COURT OF SOUTH AFRICA

(EASTERN

CAPE LOCAL DIVISION, PORT ELIZABETH)

Case

No: CC 26/2016

In

the matter

between:

CHRISTOPHER
CONSTANTINOU PANAYIOTOU
First Applicant
SINETHEMBA
NEMEMBE
Second Applicant
ZOLANI
SIBEKO
Third Applicant
And
THE
STATE
Respondent

Coram:

Chetty J

Heard:

16
May 2018

Delivered:17 May 2018

JUDGMENT

Chetty J:

[1] Historically, the criterion adopted by our courts in regard to the question of leave to appeal was whether there was a reasonable

prospect of success. The benchmark now finds legislative expression in sec 17 of the Superior Courts Act[1] which provides that leave to appeal may only be given where the judge or judges concerned are of the opinion that the appeal would have a reasonable prospect of success or there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration.

[2] Procedurally, the grounds upon which an application for leave to appeal are predicated are required to be clearly and succinctly

tabulated in unambiguous terms to enable both the prosecuting authority and the court to determine its parameters. The first applicant's notice of application for leave to appeal is unfortunately not a model of clarity and offends against the spirit and purport of section 316 of the Criminal Procedure Act[2]. It constitutes an amalgam of inane and vituperative comment, and is moreover interspersed with belligerent innuendo. Such deficiencies

ordinarily warrant that the application be struck from the roll but to do so would ultimately serve no useful purpose and merely delay the inevitable outcome of this application.

[3] The grounds upon which leave is sought on behalf of the second and third applicants are, in essence a regurgitation of the submissions

advanced at the trial, matters which were fully addressed in my

judgment.

[4] The oral and written arguments advanced by Mr Price studiously circumvent the factual matrix which not only underpins the conviction but established beyond any doubt that the first applicant, Christopher Panayiotou orchestrated his wife, Jayde's murder. The judgement on the other hand documents the full extent of the plan which he and Siyoni devised. Consequently, the attack against the judgment had perforce to avoid the crucial findings and focus instead on a plethora of disingenuous suppositions, the real victim, Jayde, now being supplanted by other would be victims in the personage of the first applicant, Siyoni and Breakfast. As I emphasized in the judgment, the only victim is Jayde. The prolix heads of argument serves only to obfuscate the real issues and to inveigle me to grant leave. The submissions advanced by Mr Price merely amplify the grounds upon which leave is sought and are, on cogent analysis, entirely without merit. In my view, the contemplated

appeal by the applicants would have no reasonable prospect of success nor is there any compelling reason why it should be heard. In the result the following order will issue:

1. The applications for leave to appeal by the applicants are dismissed.

D. CHETTY

JUDGE OF THE HIGH COURT

Obo First Applicant:

Adv T.N. Price SC

Instructed by

GRIEBENOW ATTORNEYS

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Obo Second and Third Applicants: Mr P. Daubermann

Obo the Respondent:

Mr M. Stander

National Director of Public Prosecutions

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[1] Act No. 10 of 2013

[2] Act No, 51 of 1977

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Prepared on 11 October 2026 · Esheria