

SOUTH AFRICA / JUDGMENT

S v Ruiters [2011] ZAWCHC 283; ; SS39/2010 (23 May 2011)

[2011] ZAWCHC 283

COURT

Western Cape High Court, Cape Town

BEFORE

Bozalek

CASE / FILE NUMBER

SS39/2010

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IN THE HIGH COURT
OF SOUTH AFRICA
(WESTERN
CAPE HIGH COURT, CAPE TOWN)
CASE

NUMBER: SS39/2010

DATE: 23
MAY 2011

In the matter between: DENZIL
RUITERS
.....Applicant
and
THE
STATE
.....Respondent

JUDGMENT

Application for Leave to Appeal

BOZALEK, J:

Accused 2 seeks leave to appeal against his convictions on 3 May 2011 for abduction, rape, in effect that is contravening section 3 of Act 32 of 2007, and murder and the sentences imposed, namely the two sentences of life imprisonment and a concurrent term of definite imprisonment.

A full judgment was given in which the court's reasoning was fully set out. The grounds of appeal are set out in the accused's notice dated 17 May 2011 and I shall not repeat them in the light of the existence of the full judgment which I gave. It is sufficient to state that their central thrust is that, given that the state's case was based on circumstantial evidence, this court erred in holding that the proven facts warrant the finding that the only reasonable inference to be drawn therefrom was that accused 2 abducted, raped and murdered the deceased. Put from a different perspective, it is argued that the proven facts did not exclude every reasonable inference, save for the one which was drawn against accused 2.

It is so that the case against accused 2 was based on circumstantial evidence. Whilst the principles of inferential reasoning may be simple, their application is by no means always a straightforward or uncomplicated exercise. In my view, this was, for various reasons, such a case and I consider that there are reasonable prospects that another court may come to a different conclusion on one or more of the convictions. As regards sentence, I am less persuaded that accused 2 has reasonable prospects of another court taking a different view on the sentences imposed should the murder and rape convictions be confirmed. However, since that court will already be seized with the matter and although a marginal case, I am minded to grant leave to appeal on sentence as well. Counsel were in agreement that any appeal should appropriately be heard by a Full Bench of this Division. In the result, accused 2 is granted leave to appeal to a Full Bench of this court, both against his convictions and the sentences imposed upon him.

BOZALEK, J

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In the result, accused 2 is granted leave to appeal to a Full Bench of this court, both against his convictions and the sentences imposed upon him.

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