



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA
MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 26 September 2024

Status: Immediate

The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal

Shongwe v The State (2019) [2024] ZASCA 127 (26 September 2024)

Today the Supreme Court of Appeal (SCA) handed down judgment dismissing an appeal against the decision of the Gauteng Division of the High Court, Johannesburg (the high court).

The appellant was arraigned for murder, robbery with aggravating circumstances, and theft in the Gauteng Division of the High Court, Johannesburg. This was after Mr Solomon Sinkenyani Ngodi (the deceased), was found on 10 December 2017 inside his bedroom, dead. The deceased's home was locked when he was found and there were no traces of any forced entry. Several neckties were found tied around his neck, hands, and legs. His mouth was stuffed with a cloth or neckties, and another necktie was tied around his mouth whilst it was so stuffed. The cause of death was described by the doctor who conducted the post-mortem as 'asphyxia due to ligature strangulation'.

On 11 December 2017, the appellant was arrested after the deceased's belongings amongst others, his car, wristwatch, and bank card were found on him. In addition, the State led evidence of a video footage depicting him drawing money at an ATM, the statement made to the investigating officer, Mr Makamu, including his fingerprints which were lifted from the deceased bedroom. The high court convicted the appellant on all the counts he was charged with. He was sentenced to life imprisonment for murder, 15 years' imprisonment for robbery with aggravating circumstances, and two years' imprisonment for theft, with sentences ordered to run concurrently.

Aggrieved by the conviction and sentence, the appellant applied for leave to appeal. The high court granted him leave with regard to the murder conviction only. The appellant further petitioned the SCA for leave to appeal the robbery with aggravating circumstances conviction, and the SCA granted same.

The appellant relied on two grounds as a basis for his appeal. First, that the evidence did not establish beyond a reasonable doubt that the appellant had planned the murder. Second, that it appeared from the statement made to Mr Makamu, that the intention to take the deceased's belongings was formed after the assault. As a result, the appellant should have been convicted of theft and not robbery with aggravating circumstances.

The SCA held that there was no doubt that on the facts of this matter, premeditation could be inferred from circumstances as to how the offences were committed. The conduct of the appellant during the killing, amongst others by tying the deceased with neckties, stuffing his mouth and locking the deceased house, are sufficient facts from which premeditation can be inferred. Regarding the conviction of robbery with aggravating circumstances, the SCA held that the appellant did not only assault the deceased, he tied his hands and feet as well and this took place before the belongings of the deceased were taken. There was, therefore, no doubt that the appellants' conduct before and after the murder demonstrated a clear intent to kill and rob the deceased of his belongings.

As a result, the appeal was dismissed.

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