

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG LOCAL DIVISION

**CASE NO: A306/13**

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: YES / NO.

(2) OF INTEREST TO OTHER JUDGES: YES / NO.

(3) REVISED.

DATE

SIGNATURE

In the matter between:

**BRYAN LBOGANG BOPALAMO**

**First Appellant**

**BONGANI LEONARD THABETHE**

**Second Appellant**

**and**

**THE STATE**

**Respondent**

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**JUDGMENT**

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**WEINER J:**

1. The Appellant applies for leave to appeal against the judgment handed down on 6 March 2014 in terms of which this Court dismissed the Appellant's appeal against conviction and sentence.
2. The appellants' main contention is that there are inconsistencies in the state witnesses' evidence. The Court dealt with this issue in its judgment. The court found that the fact that there were certain inconsistencies did not render all of the evidence against the appellants such that it should not be taken into account. It has been held in many cases that certain discrepancies which have no bearing on other parts of the versions should be expected from witnesses who are not perfect and may forget things after a period of time. See S v Mkohle<sup>1</sup> and Ngobeni v S<sup>2</sup> an unreported judgment of the SCA.
3. The question that has to be answered is whether, at the end of the day, the state has proved its case beyond a reasonable doubt.
4. The Court found that the appellants were in possession of certain items and could give no explanation as to the possession of these items which linked them to the crime scene. The police did not know which items were stolen, did not know which weapons were used or that a Mercedes key and jewellery had been stolen. Yet, these are the items that the police found in the possession of the appellants, very shortly after the crime occurred.

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<sup>1</sup> 1990 (1) SACR 95 (A) at 98 (E-F)

<sup>2</sup> (741/13) [2014 ZASCA59 (2 May 2014)]

5. The appellants' attempt to show that the police were acting in a conspiracy against them cannot be accepted. The evidence, considered in its totality, shows that the state proved the guilt of the appellants beyond a reasonable doubt.
6. In these premises the application for leave to appeal is dismissed.

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**WEINER J**

**I Agree:**

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**ANDROPOULOS AJ**

**APPEARANCES:**

*For Appellant:*

J. O. VAN SCHALKWYK

Instructed by BDK ATTORNEYS

*For Respondent:*

S. H SINGH

Instructed by the NATIONAL DIRECTOR OF PUBLIC PROSECUTION

*Date of Hearing:*

20 February 2014

*Date of Judgment:*

6 March 2014