

IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, HELD AT PRETORIA

CASE NO: CC155/2018

DATE: 2020-10-15

REPORTABLE:NO

OF INTEREST TO OTHER JUDGES:NO

REVISED

DATE 15/3/2021

10

In the matter between

CHARLES PETER BARKER

Applicant

and

STATE

Respondent

---

**J U D G M E N T**

---

20

**BROODRYK, AJ:** Very well, I will now give judgment in this application for leave to appeal. The applicant, Mr Charles Peter Barker, was convicted of murder read with the provisions of Section 51(1) of Act 105 of 1997 as well as a count of attempted murder. In respect of the murder he was sentenced to life imprisonment and for the attempted murder to eighteen

(18) years imprisonment. In the application for leave Mr Moeng raised the question of the complainant being a single witness and how such evidence should be treated. He further argued that another court, given the same set of facts, may come to a different conclusion. Then the question of whether it was proven that the murder was premeditated, or not, was raised. The argument is that the Court should not have found that the murder was premeditated.

10 The question of the knife was highlighted, and as to sentence, Mr Moeng stated that as to the finding of the trial Court, that there were no substantial and compelling circumstances, that he is hamstrung to argue that, as there was a concession.

However, he criticised the fixing of the non-parole period, and the argument is that the sentence should be individualised, and that the fixing of the non-parole period, in that the Court went too far. Mr Jacobs, who is now appearing for the state opposed the application, both on conviction and sentence. He stated that in a well-motivated judgment the  
20 question of the single witness was carefully dealt with by the court.

He stated that the version of the accused was laughable, reading the record, and in fact there is only one version before the Court. As to the sentence, he submitted that accused had ample time to disassociate himself from the

original stab wound, and he highlighted the fact that the accused said he is going to kill the deceased. As to the question of the fixed non-parole period, he pointed out that the accused probably could regard himself as lucky, that he was not declared a dangerous criminal, and would then only have appeared before Court after expiry of 30 years.

I have considered all the submissions by Mr Moeng. All of these submissions, all of these aspects were at length dealt with in my judgment, there is nothing new. I am not satisfied  
10 that there is any reasonable prospect that another Court might come to a different conclusion, the application for leave to appeal, I did not canvas that, but I take it, that it is to the Supreme Court of Appeal.

Let me rephrase that, the APPLICATION FOR LEAVE TO APPEAL TO THE SUPREME COURT OF APPEAL BOTH ON CONVICTION AND SENTENCE, IS THEREFORE DISMISSED.

20

BROODRYK, AJ

ACTING JUDGE OF THE HIGH COURT

For the Applicant : Mr Moeng, instructed by the Legal Aid

Board, Pretoria

For the Respondent : Adv K Jacobs, instructed by the Director  
of Public Prosecutions, Gauteng Division,  
Pretoria