



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION PRETORIA

CASE NO: A569/15

(1) REPORTABLE: YES/NO	(NO)
(2) OF INTEREST TO OTHERS JUDGES: YES/NO	(NO)
(3) REVISED	
13 March 2021	
DATE	SIGNATURE

In the matter between:

BONGANI TIMOTHY HLATSHWAYO

Appellant

and

THE STATE

Respondent

JUDGMENT

BAM J:

1. On the 11th of February 2015 the appellant was convicted in the Regional Court, Evander, on one count of Murder committed on the 17th May 2014.
2. Leave to appeal against only the conviction was granted on the 18th of March 2015.
3. At the trial the accused was represented by an attorney and pleaded not guilty, made formal admissions that he stabbed the deceased and that the deceased died as a direct result of the stab wound. Appellant's plea was that he acted in self-defense.

4. In order to lay the background to the outcome of this appeal, I deemed it expedient to give a summary of substantial facts.
5. The evidence led by Namoya Maria Shabangu and Nametha Esther Shabangu was that both the deceased and the appellant had a fight, they threw each other with stones. Both witnesses testified that the deceased told the appellant to put the weapons aside and to fight with their bare hands. The deceased ran away and he was followed by the appellant who was in possession of a knife and axe. The deceased fell into a furrow.
6. There was a discrepancy between the witnesses whether the deceased was facing up or down when the appellant stabbed him, as well as whether the appellant first stabbed him or chopped him with an axe. What is clear is that the deceased was on the ground and he had no weapon in his hands, when he was stabbed and chopped.
7. There was no call to stab the deceased in self-defense as the appellant was not in any danger and the appellant was not subject to any eminent danger at all, the deceased attempted to get away from him.
8. On appeal the legal representative stated that the court a quo should have approached the evidence with caution as the witnesses materially contradicted each other on crucial evidence, and thus the contradictions are irreconcilable.
9. The trial court correctly found that the crime was committed as alleged by the State and that the conduct of the appellant exceeded the bounds of self-defense.
10. After having considered the evidence, summarized above, and the submissions made on behalf of the appellant and the State, there is no basis upon which it can be said that the trial court erred in any respect. The evidence proved beyond reasonable doubt that the appellant committed the crime.
11. As stated above there is no appeal against sentence, and it need not be addressed.

ORDER:

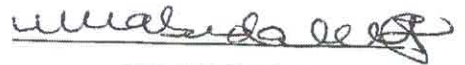
1. The appeal against the conviction is dismissed.
2. The conviction and sentence are confirmed.



AJ BAM (J)

JUDGE OF THE HIGH COURT OF SOUTH AFRICA,
GAUTENG DIVISION

I agree



MB MABUNDA (AJ)

ACTING JUDGE OF THE HIGH COURT OF SOUTH AFRICA,
GAUTENG DIVISION

DATE OF HEARING (ON PAPER) : 01 FEBRUARY 2021

DATE OF JUDGMENT : 10 MARCH 2021

APPEARANCES:

For the Appellant : Mr MB Kgagara

For the Respondent : Advocate SD Ngobeni