

Supreme Court of Appeal of South Africa

MEDIA SUMMARY – JUDGMENT DELIVERED IN SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 29 March 2007

Status: Immediate

Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal

In a judgment delivered today, the SCA dismissed the bail appeal of Mr Scott-Crossley.

The appellant, together with his co-accused Simon Johan Mathebula, was convicted of the murder of Simon Chisale on 28 April 2005 and sentenced to life imprisonment in the circuit court sitting at Phalaborwa. After he unsuccessfully applied for leave to appeal from the trial court leave was subsequently granted by the SCA. In the wake thereof, the appellant brought an application for bail pending the outcome of his appeal. After his application was dismissed by the High Court, he appealed to the SCA.

The matter arose from an incident on 31 January 2004 at Hoedspruit when the body of Mr Chisale was thrown into the lions' den at the Mokwalo White Lion Camp by the appellant and his co-accused.

According to the State's evidence, which was accepted by the High Court, the deceased was still alive when this happened. On the appellant's version the dead body of Mr Chisale was thrown into the lions' den to prevent the authorities from discovering the commission of the crime of culpable homicide by his co-accused.

In dismissing his appeal, Judge SPB Hancke Acting Judge of Appeal (Judges IG Farlam, JA and HM Musi, AJA concurring) said that the appellant on his own version committed a callous and heinous crime. His counsel conceded that he was at least guilty of being an accessory after the fact to culpable homicide, and that the average sentence for this crime was approximately five years imprisonment. If regard is had to the fact that the appellant was sentenced on 13 September 2005, he will have served two years of his sentence when his appeal is dealt with during August/September 2007.

In view of the fact that the appellant has no prospect of avoiding a custodial sentence for a longer period than the period he will have served when judgment is given in his appeal, Judge Hancke said that the appellant had not discharged the onus of establishing 'exceptional circumstances as contemplated in s 60(11)(a) of the Criminal Procedure Act 51 of 1977. The appeal was therefore dismissed.

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