



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal
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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.

TSHAKWATA and another v THE STATE

The Supreme Court of Appeal (SCA) today upheld the appeal of the appellants against their convictions and related sentences imposed in the Limpopo High Court, Thohoyandou on a charge of murder.

The issue before the SCA was whether the appellants had associated themselves with the murder of the deceased who was the wife of one of their co-accused in the High Court. The appellants were convicted on the basis of statements and pointings out that were made by two of their co-accused. The affected two co-accused had contested the admissibility of the statements and pointings out on the grounds that they were not made freely and voluntarily. The high court ruled the statements and pointings out admissible.

At the main trial none of the six accused testified in their defence. There was no other admissible evidence implicating the appellants in the commission of the murder. The high court held that the failure of the appellants and their co-accused to testify meant that the State's case against them was unchallenged.

The SCA found that the statements made by the two co-accused were meaningless and in any event conflicting. It went on to say that even if the statements were admissible, which was highly questionable, they did not assist the State.

Consequently the SCA held that the conviction of the appellants were not sustainable. Hence the appeal was allowed and convictions and the related sentences were set aside.