



THE SUPREME COURT OF APPEAL
OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal
Date: 30 November 2015
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.

Khavhadi & others v The State (459/15) [2015] ZASCA 191 (30 November 2015)

Today the Supreme Court of Appeal (SCA) upheld an appeal from the Limpopo Local Division of the High Court, Thohoyandou and set aside the convictions and sentences of life imprisonment imposed on each of the three appellants.

The issue before the SCA was whether the evidence on which the appellants were convicted was sufficient.

The appellants were charged with murder of a four year old child who disappeared on 14 September 1999. The State's case was that after the child had been left in the care of her mother's friend and neighbour, the main State witness, Ms Alice Maphosa, the second appellant arrived during the night of 14 September 1999, together with the other two appellants and took her away in order to present her as a sacrifice in a ritual murder to appease the gods the second appellant believed in. It was alleged that the child had to be killed in order to harvest her body parts for presentation to the gods as part of the appeasement process. The second appellant was in training to become a traditional healer and the third appellant was a traditional healer and was training the second appellant to be one as well.

The post-mortem examination conducted on the skeletal remains – consisting of a skull and six ribs - which were found in the vicinity of where the child and the second appellant resided could not establish the cause of death and the sex of the victim. No DNA testing was conducted. There was a substantial doubt about whether the skeletal remains were those of the child. An essential element of the crime of murder was thus not proved.

Maphosa who mentioned the appellants and suspects was wholly unreliable. The fear for her own safety prompted the accusations she levelled at the two of the appellants.

The SCA held that the court below erred in unreservedly accepting the evidence of Maphosa. She was far from a satisfactory witness. The SCA concluded that the guilt of the appellants had not been proved beyond reasonable doubt and for that reason upheld the appeal.