



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
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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.

Pillay v The State (453/15) [2016] ZASCA 26 (18 March 2016)

Today the Supreme Court of Appeal (SCA) upheld an appeal from the Kwa-Zulu Natal Division of the High Court, Pietermaritzburg and set aside the conviction and the sentence of two years' imprisonment imposed in terms of s 276(1)(i) of the Criminal Procedure Act 51 of 1977.

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

The appellant was convicted on a charge of indecent assault. He was found to have indecently assaulted the complainant, a 13 year old girl, over the period June 2006 to May 2007 by making her touch his penis and by showing her a picture of a penis on his cellular phone. There were contradictions and improbabilities in her evidence, but this notwithstanding the trial court unreservedly accepted her evidence and convicted the appellant. It failed to properly analyse the complainant's evidence given the contradictions and improbabilities and the extent to which these shortcomings in her evidence affected the reliability of the evidence and the complainant's truthfulness as a witness. Secondly, the trial court applied a wrong standard in determining the guilt of the appellant and by so doing, misdirected itself.

The SCA held that the evidence adduced was insufficient to sustain conviction and concluded that the guilt of the appellant had not been proved beyond reasonable doubt and for that reason upheld the appeal.