

IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE HIGH COURT, CAPE TOWN)

CASE NO:

SS64/98

DATE:

15 December 1998

5 In the matter between:

VINCENT JAMES GOLIATH

Applicant

and

THE STATE

Respondent

10

JUDGMENT

(Application for Leave to Appeal)

CLEAVER, J

15 This is an application for leave to appeal against the
conviction of the appellant by myself and two assessors on 2
November 1998.

The appellant was found guilty on count 3 of assault on
20 Barbara Stone with intent to do grievous bodily harm and on
count 4 of common assault, on the deceased, Delia Jacobs,
and on count 5, of the murder of Delia Jacobs.

Mr Lange, who appeared on behalf of the appellant, and who
25 also appeared at the trial, listed a number of grounds in the

application for leave to appeal, all of which were argued and canvassed at the trial and dealt with in the judgment. This morning he highlighted certain of the grounds but by doing so he did not indicate that he was not relying on the remaining
5 grounds.

In respect of the conviction of the appellant of assault with intent to do grievous bodily harm on Barbara Stone Mr Lange highlighted certain differences between the statements made
10 by the complainant to the police and her evidence. He also referred again to differences between the evidence of Barbara Stone and the witness Frans Stone, and on this basis suggested that another Court might come to a different view. In my view there is no prospect of another Court coming to a
15 different view on this charge. This is basically for the reasons detailed in the judgment that whatever contradictions there may have been, the evidence given by the complainant, and corroborated by the report made by her to the police immediately after the occurrence, coupled with her physical
20 condition at the time, plus the corroboration which is to be found in Frans' evidence are to my mind such that no other Court will come to a different view on this count.

In regard to the charge of murder Mr Lange, as was to be
25 expected, based his attack on the findings of the Court on the

issue of the circumstantial evidence. In the judgment of the Court the circumstances which the Court took into account, which led to the finding that no other conclusion could be drawn are set out, and I have had again had occasion to look
5 at these circumstances. Mr Lange's submissions were to the effect that the circumstantial nature of the evidence, plus the inability of the State to prove the actual cause of death are so interwoven with each other that in the result another Court could come to a different conclusion.

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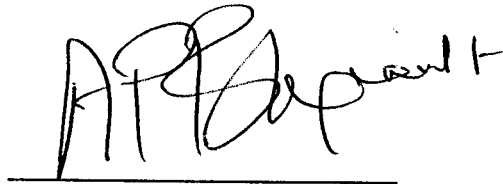
The facts which were found by the trial Court were highlighted by Ms Lochner, who appeared for the State, namely that the body of the deceased was identified by her mother as a result of physical characteristics. It was quite clear from the
15 evidence that the body had been set alight with the view or certainly to have the result of obliterating any cause of death. The doctor who testified satisfied the Court that the deceased did not die of natural causes and I am not persuaded that another Court would come to a different conclusion on that
20 score.

The circumstantial evidence is to my mind so strong that I am also of the view that another Court will not come to a different conclusion as to the accused's responsibility for the death.

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In the circumstances the APPLICATION FOR LEAVE TO
APPEAL IS DISMISSED.

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A handwritten signature in black ink, appearing to read 'J. Cleaver', written over a horizontal line.

on behalf of J. CLEAVER, J

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