



## THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

### MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

**From:** The Registrar, Supreme Court of Appeal

**Date:** 15 January 2024

**Status:** Immediate

***The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal***

*Michael Jantjies v The State* (Case no 532/2022) [2023] ZASCA 3 (15 January 2024)

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Today the Supreme Court of Appeal (SCA) upheld an appeal against the judgment of the Western Cape Division of the High Court, Cape Town (the high court), in respect of which it dismissed an appeal by Michael Jantjies (the appellant) against his conviction on three counts of rape by the regional magistrate in the Regional Division of Western Cape (the trial court). The SCA further set aside and replaced the high court's order.

On 5 June 2019, the trial court convicted the appellant on all three counts and sentenced him to an effective term of 16 years' imprisonment. On 17 July 2019, the trial court granted the appellant leave to appeal against his conviction in terms of s 309C of the Criminal Procedure Act 51 of 1977 (the CPA). The high court dismissed the appeal on the rape convictions.

In the trial court, the State led the evidence of the complainant and a police officer, retired Warrant Officer Johan Tobias Grobbelaar (Grobbelaar), to whom the complainant reported the incident. The appellant testified in his defence without calling any further witnesses. In summary, the evidence was that the complainant met the appellant on a dating site on a social media platform in August 2014. The appellant held himself out as a private investigator and police officer. They communicated with each other through Facebook and WhatsApp, chatting daily. They met in person on 24 December 2014 and started seeing each other almost every day after that, including during weekends and after school. They went away most weekends and would stay in one room together. The complainant testified that on three occasions, they went on a weekend away trips to Vredenburg, always staying at St Helena Bay Hotel (the hotel). She stated that, despite sharing a room and being alone with the appellant, he never made any sexual advances towards her.

Regarding the actual incident, the complainant testified that on 6 March 2015, she and the appellant booked themselves a room at the hotel. They shared a room but slept on separate beds. On 7 March 2015, she was awakened by the appellant, who was getting onto her bed. According to her, the appellant placed his arm under her neck, held her wrist, and prevented her from getting up. Despite her attempts, he pinned her down, turned her on her stomach, and proceeded to penetrate her anus with his penis, where she experienced excruciating pain. After that, the appellant went to the bathroom, took a shower, returned to the bedroom, turned her on her back and inserted his penis into her vagina, and, after that, placed his penis into her mouth. All these acts by the appellant were without her consent.

The following Monday, the appellant went to the complainant's house to inform her of a housing opportunity available for her children following an alleged cancellation on the council's waiting list. The appellant asked for R50 000 to cover deposit and transfer costs by Thursday. In response, the complainant and her children secured loans and provided the funds to the appellant. On Friday, as per the appellant's request, the complainant drove him to town to facilitate the payment. However, upon exiting the car with the cash, the appellant disappeared and never returned.

The State's second witness, Warrant Officer Grobbelaar, contradicted the complainant's portrayal of the appellant as a mere platonic friend rather than her boyfriend in his testimony. He testified that he met the complainant at Kenilworth Clinic, where they were both undergoing psychiatric treatment. The complainant, upon learning that he was a policeman, confided in him about the alleged rape by her ex-boyfriend (the appellant) at the hotel in March 2015. He advised her to report the rape to the police, which she did, on 19 September 2015, once she had been discharged from the clinic.

The appellant vehemently denied all allegations against him, particularly denying the claim of being with the complainant at the hotel in March 2015. He insisted that all intimate encounters he had with the complainant were consensual. He contended that the rape accusation was fabricated, attributing it to the complainant's sense of betrayal after he stole R50 000 from her and terminated their relationship. The appellant portrays the complainant as vengeful, asserting that she opened numerous police dockets against him and orchestrated media accusations of rape. He stated that their last weekend together was on 18 January 2015, during which he booked a bungalow in Lanesville to celebrate his birthday.

The issue before the SCA was whether the State had proved the guilt of the appellant beyond reasonable doubt on the evidence presented before the trial court.

In coming to a conclusion, the SCA reasoned that the trial court adopted an incorrect judicial approach to the evaluation of evidence and failed to exercise caution when it evaluated the evidence of a single witness. It further held that the high court materially misdirected itself by not taking into account the entirety of the evidence and neglecting the fundamental principle in criminal proceedings that the State must prove its case beyond reasonable doubt, pointing out that the high court failed to recognise that the accused is not obligated to prove the truth of any explanation he provides as the burden lies with the State.

The SCA held that the high court neglected to appropriately evaluate the appellant's countervailing evidence that the complainant had a motive to accuse him of the alleged rape falsely and that the high court misdirected itself in overlooking significant email correspondence, text messages and newspaper articles that portrayed the complainant's unwavering love for the appellant and her sense of betrayal after the appellant defrauded her and absconded with her money.

In the result, the SCA found that when the evidence was weighed in its totality, it supported the conclusion that the appellant's version of events could reasonably possibly be true and that the evidence of the complainant, when viewed with the appropriate caution called for, raises doubt about the appellant's guilt. In the circumstances, the SCA found that the State had failed to prove the appellant's guilt beyond reasonable.

The SCA expressed concern about the poor quality of the investigation and evidence presented at the trial. It noted that crucial steps were neglected, such as interviewing potential witnesses at the crime scene and scrutinising the appellant's alibi. This, according to the court, impacts the administration of justice and the public confidence in the legal system