



**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:** 05 October 2026

**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***

*Director of Public Prosecutions, Gauteng Division v Matsepe & Another* (092/2025) [2026] ZASCA 135 (05 October 2026)

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Today, the Supreme Court of Appeal (SCA) dismissed an appeal against the judgment of the Gauteng Division of the High Court, Pretoria (the high court).

The application stems from the criminal trial in *State v Andile Malusi Attwell Ramavhunga and 12 Others* relating to the demise of the VBS Mutual Bank (VBS). In the high court, the respondents appeared as accused numbers nine and ten, together with 11 co-accused, facing various counts of (i) racketeering offences in contravention of the Prevention of Organised Crime Act 121 of 1998 (POCA); (ii) theft; (iii) fraud; (iv) corruption in contravention of the Prevention and Combating of Corrupt Activities Act 12 of 2004; and (v) money laundering in contravention of s 4, alternatively s 5 and/or s 6 of POCA. The respondents and their co-accused were indicted on 179 charges, with the first respondent on 39 counts and the second respondent on eight counts.

After various case management meetings, the matter was set down for plea and trial on 22 July 2024. On that date, the respondents served an application on all the parties, seeking a temporary stay of their prosecution (prayer 1) and separation of trials in terms of s 157 of the Criminal Procedure Act 51 of 1977 (CPA) (prayer 2). The application was argued on 14 August 2024. On 16 August 2024, the court dismissed the first prayer and granted the relief sought in prayer 2, namely, the separation of trials of the respondents from those of their co-accused.

On 4 October 2024, the applicant, Director Public Prosecutions, Gauteng Division (DPP), filed an application for the reservation of questions of law in terms of s 319(1) of the CPA. On 11 November 2024, the application for the reservation of questions of law in terms of s 319(1) of the CPA was argued before the high court. On 6 January 2025, judgment was handed down and the high court dismissed the application for reservation of questions of law in terms of s 319(1) of the CPA.

On 6 February 2025, the DPP applied for leave to appeal to this Court in terms of s 317(5) of the CPA in respect of the granting of prayer 2 mentioned above and to the dismissal of the application in terms of s 319(1) of the CPA to reserve five questions of law for the consideration of the Supreme Court of Appeal (SCA). The DPP seeks from this Court the following:

- (a) that leave to appeal against the refusal of the high court to reserve questions of law be granted;
- (b) that the questions of law be reserved and referred to this Court for consideration.
- (c) in the event that the merits are considered by this Court, that the court order that the appeal succeeds and the order of the high court, granting the separation of trials in respect of the respondents in terms of s 157 of the CPA, be set aside.

On 23 April 2025, this Court, as per the order of Honourable Justices Makgoka JA and Dlodlo AJA, referred the DPP's application for oral argument pursuant to the provision of s 17(2)(d) of the Superior Courts Act 10 of 2013.

The majority held that two antecedent questions arise in this application: mootness and appealability. Mootness: By the time the matter was heard by this Court, the respondents had unsuccessfully pursued all attempts at appealing the judgment refusing their application to compelling further and better particulars. The parties were agreed at the hearing of the matter that there is nothing to prevent the DPP from applying to consolidate the respondents' prosecution with that of their co-accused once more. Appealability: The common law test for appealability is not satisfied.

The second antecedent issue is whether the s 319 application by the DPP to reserve questions of law gives rise to an appealable issue in the circumstances of this case. This question stems from the nature of the order in respect of which the DPP seeks to reserve questions of law for consideration by this Court on appeal. The separation order is an interlocutory order and the questions of law thus relate to an interlocutory order.

The majority held further that the questions did not 'arise on the trial' of the respondents and thus that the jurisdictional requirement under s 319 was not satisfied. The majority distinguished the case from the decisions of the Constitutional Court and SCA in *S v Basson* [2005] ZACC 10; 2005 (12) BCLR 1192 (CC); 2007 (3) SA 582 (CC); 2007 (1) SACR 566 and *Porritt and Another v National Director of Public Prosecutions and Others* 2015 (1) SACR 533 (SCA), which had extended the availability of s 319 to certain cases prior to a plea being offered on the charges. The majority confirmed the principle that piecemeal appeals are to be avoided. Moreover, even assuming that the jurisdictional requirement had been met, the questions of law sought to be reserved lacked legal foundation. There being no prospects of success in respect of these two questions, leave to appeal must be refused.

The minority in respect of the questions of law, concludes that in ordering the separation of trials, the high court committed various errors of law which fall within the ambit of s 319. Accordingly, it finds that the questions of law should be determined in favour of the applicant, and the separation order set aside.

The minority concluded that the separation order (and hence the questions of law arising from it) have final effect.

The majority, however, concluded that the application for leave to appeal must be dismissed. First, because the DPP has failed to satisfy the jurisdictional requirement necessary for this court to consider an appeal against the refusal to reserve questions of law in terms of s 319. In addition, and in any event, there are no reasonable prospects that, were an appeal to be entertained, it would be upheld. There is no merit in any of the questions of law sought to be reserved by the DPP. The SCA accordingly dismissed the appeal.

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