



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: 30 July 2021

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

Machi v The State (256/2020) [2021] ZASCA 106 (30 July 2021)

Today the Supreme Court of Appeal (SCA) dismissed the appeal against an order of the full court of the Gauteng Division of the High Court, Johannesburg.

On 19 January 2007, the deceased, Mr Thusi, was fatally shot during the night in his office at the Engen Diesel Depot (the depot) in Langlaagte, Johannesburg while on duty. The appellant, Mr Machi, his co-worker at that time, was subsequently arrested and charged with murder on the strength of the information the police received from Mr Ntunja and Mr Makholisa, who were on duty during the night at the Engen garage situated next to the depot. Their evidence relied on by State was that, on that fateful night, Mr Machi came to the garage around 20h30 driving a motor-vehicle accompanied by another person who was unknown to them. This person after disembarking from the vehicle proceeded to the direction of the depot which was situated at the back of the garage whilst Mr Machi, was talking to them. Mr Machi left the garage .Shortly thereafter, sound of gunshots was heard coming from the back of the garage. Subsequent to that, the same unknown person they had earlier observed, came back running from the direction of the depot and climbed into the motor-vehicle driven by Mr Machi. The motor-vehicle had at that time stopped next to the depot with its hazard lights flashing. They both drove away. They learned later that Mr Thusi was shot dead.

Mr Machi raised an alibi defence during trial before the South Gauteng High Court (trial court). This was rejected by the trial court and he was convicted of murder and sentenced to life

imprisonment. He successfully obtained leave to appeal to the full court of that Division against the conviction and the resultant sentence. The full court dismissed the appeal against conviction but set aside the sentence of life imprisonment imposed. It substituted it with one of 20 years' imprisonment. This Court granted the appellant special leave to appeal against both the conviction and sentence.

There were three issues for determination; whether the circumstantial evidence relied by the state in view of the contradictions that were pointed out, was sufficient and reliable to prove that Mr Machi was at the scene of crime; whether he acted in common purpose with the alleged shooter; and whether the reduced sentence was harsh. The SCA held that there was no demonstrable irregularity shown in the manner in which the trial court evaluated the evidence; that the contradictions were not fatal to affect the credibility of Mr Makholisa and Mr Ntunja; that the confirmation of the conviction by the full court could not be faulted; and that there was no reason to interfere with the sentence reduced by the full court. In the result, the SCA dismissed the appeal against both the conviction and sentence.

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