



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

Case number: 53/04

In the matter between

TSINYANE SOLOMON MAMUSHE

APPELLANT

and

THE STATE

RESPONDENT

From: The Registrar, Supreme Court of Appeal
Date: 2007-05-17
Status: Immediate

Mr Tsinyane Mamushe was convicted in the Vereeniging Circuit Court on several charges, including murder and armed robbery and then sentenced, effectively, to life imprisonment. Today the SCA upheld his appeal against that judgment. In the result his convictions and the sentences imposed by the Trial Court were set aside.

The matter arose from an incident that occurred on 31 January 1997 in Evaton near Vanderbijlpark when Mr Kapok Mhala was shot and killed in the course of an armed robbery. It was not in dispute that Mr Mhala was

fatally shot and that he was robbed of virtually all the money in his possession at the time. The circumstances under which it happened were also largely common cause. The issue was whether the evildoer was the appellant, as alleged by the state. In essence the state's case relied on the eyewitness testimony of Mr Kgoto Ramakgula as corroborated by the police statements of Ms Bessie Martin.

In her statements to the police Ms Martin identified the appellant as the person who shot the deceased. Though she was called as a witness at the trial, she denied that she ever made those statements. Despite this denial the Trial Court held that she did in fact make the statements and admitted the contents thereof against the appellant.

The Supreme Court of Appeal found, however, that, although the statements were admissible to discredit Ms Martin, their contents remained hearsay evidence and should not have been admitted against the appellant.

As to the only remaining evidence against the appellant, being that of the eyewitness, Mr Ramakgula, the SCA held that there were a number of indications that this witness might have been mistaken in identifying

the appellant and a conviction solely on the basis of Mr Ramakgula's testimony, could therefore not be justified.