



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal
DATE 1 December 2010
STATUS Immediate

Please note that the media summary is for the benefit of the media and does not form part of the judgment.

**Sindane v The State
(510/10) [2010] ZASCA (1 December 2010)**

Media Statement

Today the Supreme Court of Appeal (SCA) dismissed an appeal by Mr T P Sindane (the appellant) an educator, against his conviction by the KwaZulu-Natal High Court (Pietermaritzburg) on a charge of rape, involving his 19 year old domestic worker.

In argument before this court, it was contended on behalf of the appellant, that the complainant did not comprehend the meaning or import of the word 'rape' when she used it in her evidence especially since she had never had sexual intercourse before the incident.

The SCA rejected this argument. First, the issue of penetration or what the complainant understood by the word rape was never canvassed during her evidence. Second, after a close inspection of the record and on the totality of the evidence, this court could find no indication to suggest that she did not fully understand what the term 'rape' encompassed. This court held that the complainant fully comprehended what rape entailed. Third, accepting the fact that the appellant did not bear an onus, one would have expected him to put in dispute that penetration had taken place. Furthermore, the medical evidence corroborated the complainant's evidence that a sexual assault had occurred.

The SCA held that the State had proved all the elements of the offence and accordingly dismissed the appeal.

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