



THE SUPREME COURT OF APPEAL
REPUBLIC OF SOUTH AFRICA

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

FROM The Registrar, Supreme Court of Appeal
DATE 25 May 2012
STATUS Immediate

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

Kekana v The State
(581/11) [2012] ZASCA 75 (25 May 2012)

Media Statement

Today the Supreme Court of Appeal (SCA) dismissed an appeal by Mr Kekana (the appellant) against his conviction and sentence of 5 years' imprisonment on a charge of attempted conspiracy to commit murder by the South Gauteng High Court.

The appellant had been convicted of conspiring with Sipho Ndlovu to murder Frederick Ngoma, a work colleague of the appellant. During the trial in the regional court the magistrate accepted the evidence of the state witnesses and held that they were credible and reliable witnesses whose evidence had been corroborated in all material respects. These findings were not interfered with by the high court when the matter came on appeal to it. The appeal was however partially successful as the high court altered the appellant's conviction to one of attempted conspiracy to commit murder and reduced his sentence to one of 5 years' imprisonment.

The SCA held that its powers to interfere with the factual findings of a trial court are limited. The SCA reiterated that in the absence of demonstrable and material misdirection by the trial court, its findings of fact are presumed to be correct and will only be disregarded if the recorded evidence shows them to be clearly wrong. In this case no misdirection had been relied upon. There was thus no warrant for the factual findings or findings of credibility to be interfered with.

As no misdirection had been relied upon in respect of sentence and as the sentence, given the circumstances of the matter, did not induce a sense of the shock, the SCA also did not interfere with the sentence imposed.

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