



MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

NKABINDE MBUISE KHETANI & OTHERS V THE STATE

From: The Registrar, Supreme Court of Appeal

Date: 1 June 2017

Status: Immediate

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

The Supreme Court of Appeal (SCA) handed down judgment today in an appeal from the Free State Division of the high court, Bloemfontein. The SCA dismissed the appellants' appeal against their convictions and sentences for murder and armed robbery, arising from a cash-in-transit heist on the N8 National road near Petrusburg in 2008.

The issues on appeal were whether the appellants' had been properly convicted and sentenced. They alleged that their trial was irregular, based on numerous special entries on the record in terms of s 317(1) of the Criminal Procedure Act 51 of 1977 (CPA), which included allegations that the trial judge was biased and that the police 'planted' evidence to implicate the appellants in the crimes.

The SCA held that the special entry procedure must be used only if an irregularity in the trial appears on the record. The so-called special entries appeared on the record and were thus grounds of appeal. Special entries are not there for the asking; s 317 of the CPA must be strictly complied with. A court must satisfy itself that a special entry is bona fide, and not frivolous or absurd. The special entries in this case were held to be frivolous and absurd. The appellants' convictions and sentences were confirmed.