



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 29 September 2017

STATUS Immediate

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

Maqubela v The State (821/2015) [2017] ZASCA 137 (29 September 2017)

Media Statement

The SCA today upheld an appeal against the appellant's conviction of murder and subsequent sentence of 15 years' imprisonment, for the murder of her husband. It was held that when the medical evidence of Prof Saayman, a specialist pathologist, as to the cause of death of the deceased was properly assessed in accordance with the appropriate judicial measure of proof, being the assessment of probability, and not in accordance with the scientific measure of proof being the ascertainment of scientific certainty, the correct conclusion was that the deceased probably died of natural causes. This conclusion was based upon objective medical facts, sound logical reasoning and accorded with the probabilities as revealed by the medical evidence. The trial court had accordingly erred in concluding that the medical evidence as to the cause of death of the deceased was inconclusive. In the light of the conclusion that the deceased probably died of natural causes, even if the mendacity and guilty consciousness of the appellant were taken into account, an unlawful killing was not the only reasonable inference that could be drawn. A finding of murder was therefore precluded. The trial court, however, impermissibly relied upon the evidence of guilty conduct on the part of the appellant, without more, to prove the guilt of the appellant. In the result, the appeal against the conviction of murder succeeded.

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