



**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:** 15 July 2022

**Status:** Immediate

The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal

***ICM v The State* [2022] ZASCA 108**

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The Supreme Court of Appeal (SCA) today dismissed an appeal against an order by the Gauteng Division of the High Court, Pretoria (high court). The matter emanated from the Regional Court, Pretoria (regional court), where the appellant was convicted on five counts of sexual assault and one count of rape. He was sentenced to nine year's imprisonment. He appealed against the convictions and sentences to the high court. The appeal against the convictions was dismissed but the sentence was reduced to six year's imprisonment. Having had his appeal against the convictions dismissed by the high court, the appellant appealed against only the convictions to this Court.

The appellant argued that the complainant, who was 11 years old at the time of the incidents, lied by fabricating the sexual assault and rape aspects of the incidents. The argument was further that it was at the complainant's mother's instigation that the complainant concocted the lies. In the high court the appellant submitted that the regional court erred: (i) by not applying the cautionary rule when it evaluated the complainant's testimony; (ii) by not considering the testimony of a medical doctor who commented on photographs taken by the complainant's mother, which served as evidence of the sexual assault; and (iii) by not properly assessing the testimonies of the aforementioned medical doctor as well as that of another medical doctor. The high court rejected the appellant's submissions and found that the regional court had not

misdirected itself and that it had not committed any irregularity in its evaluation of the totality of the evidence. It found that the regional court's factual findings were correct.

This Court confirmed that, even though the complainant was a single witness, a court was at liberty to convict on the testimony of a single witness, provided that the evidence was clear and satisfactory in every material respect. With regard to the complainant's age the legal position is that a court that considers the evidence of a child, be satisfied that the child was a credible and reliable witness. As with any other witness, the child witness' testimony should be evaluated in the light of the totality of the evidence: the rape incident was attached to broader events which were not in dispute and the other sexual assault incidents were described with reference to other incidents that happened on the same days which were also not in dispute.

This Court applied the established principle that the State had the onus to prove the guilt of an accused beyond reasonable doubt. The decision to convict or acquit must have been based on the totality of the evidence and, despite the allegations levelled by the appellant, this Court found that it did not detract from the fact that on a conspectus of all the evidence, the guilt of the appellant was proved beyond reasonable doubt, regardless of discrepancies in the evidence presented by the complainant.

The SCA found that the State proved the appellant's guilt beyond reasonable doubt and that the high court properly dismissed the appeal. In the result, the SCA dismissed the appeal.

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