



**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*

*Maree v The State (Case no 422/2021) [2022] ZASCA 112 (15 July 2022)*

Today the Supreme Court of Appeal (SCA) handed down judgment dismissing and setting aside the order of the Western Cape Division of the High Court, Cape Town (the high court), which dismissed the appellant's application for leave to appeal.

The appellant stood trial in the Regional Court, Parow, on four charges, namely, rape (count 1), sexual assault (count 2), attempt to commit a sexual offence (count 3) and exposure of his genital organs (count 4). Pursuant to his trial, a guilty verdict was returned on all the counts. He was sentenced as follows: on count 1, ten years' imprisonment; on count 2, two years; on count 3, four years; and on count 4, one year. The sentences on counts 2, 3, and 4 were ordered to run concurrently with the sentence on count 1. Accordingly, he had to serve an effective term of 10 years' imprisonment.

The appellant's application to the regional court for leave to appeal to the Western Cape Division of the High Court, Cape Town (the high court) was refused. His subsequent petition to the high court in terms of s 309C of the Criminal Procedure Act 51 of 1977 (the CPA) was similarly unsuccessful. He therefore filed an application with the SCA for special leave to appeal the high court's refusal of the petition, which was granted.

The guiding principles on appeals of this nature are well-established. Section 309(1)(a) of the CPA makes it plain that no appeal shall lie directly from a lower court to the SCA. The appeal must be heard by the high court having jurisdiction. The issues before the SCA were thus circumscribed. The applicable test is whether there is a reasonable prospect of success in the impending appeal against the conviction and sentence, rather than whether the appeal against the conviction and sentence ought to succeed or not.

The SCA held that, there had been some shortcomings in the analysis of the evidence adduced and that a court of appeal could reasonably arrive at a different conclusion than that of the trial court. On the question of sentence, SCA held that there existed a reasonable prospect that another court on appeal might consider the statutory minimum sentence imposed to be disproportionate to the crime. It therefore granted the appellant leave to appeal to the high court against both his conviction and the sentence.

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