



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

JUDGMENT

Not reportable

Case No: 51/2019

In the matter between:

DAVID PAPIKI KOMANE

APPELLANT

and

THE STATE

RESPONDENT

Neutral Citation: *David Papiki Komane v The State* (51/2019) [2022] ZASCA 55 (20 April 2022)

Coram: ZONDI, MOLEMELA and MBATHA JJA and MATOJANE and SMITH AJJA

Heard: 16 February 2022

Delivered: This judgment was handed down electronically by circulation to the parties' legal representatives by email, publication on the website of the Supreme Court of Appeal and release to SAFLII. The date and time for hand-down are deemed to be 10h00 on 20 April 2022.

Summary: Criminal law – evidence – what constitutes sufficiency of circumstantial evidence – conviction based on circumstantial evidence well-founded – convicted on the strength of DNA evidence and confession – importance of conducting proper pointing out – conviction confirmed.

ORDER

On appeal from: Limpopo Division of the High Court, Polokwane (Makgoba JP, sitting as court of first instance):

The application is dismissed.

JUDGMENT

Mbatha JA (Zondi, Molemela JJA and Matojane and Smith AJJA concurring)

[1] On 26 January 2018, the applicant, Mr David Papiki Komane, together with three of his erstwhile co-accused, was convicted of robbery with aggravating circumstances in the Limpopo Division of the High Court, Polokwane (the high court). The high court found no substantial and compelling circumstances that warranted the imposition of a sentence less than the one prescribed in the Criminal Law Amendment Act 105 of 1997 (the CLAA). As a result, the applicant was accordingly sentenced to 18 years' imprisonment. His application

for leave to appeal against both conviction and sentence was dismissed by the high court.

[2] The applicant subsequently petitioned this Court for leave to appeal against the conviction. The petition met with the same fate. The applicant, in terms of s 17(2)(f) of the Superior Courts Act 10 of 2013 (the Superior Courts Act), lodged a further application to the President of this Court for reconsideration of the decision dismissing the leave to appeal. The application for reconsideration was heard by Navsa AP on 28 March 2019, who ordered that the application for leave to appeal be referred for oral argument in terms of s 17(2)(d) of the Superior Courts Act. The parties were directed to be prepared, if called upon to do so, to address this Court on the merits of the appeal.

[3] The applicant applied in terms of rule 12 of the Rules of the Supreme Court of Appeal for condonation for the late filing of the record and the heads of argument. The applications were not opposed by the respondent. Accordingly, the applicant's non-compliance is condoned.

[4] The only issue in this appeal is whether there are reasonable prospects of success in the applicant's appeal.¹ The applicant's conviction arose as a result of a robbery that took place at a G-Force Security Solutions Depot (G4S) in Marble Hall. Shortly before midnight on 9 December 2015, camouflaged in female clothing, a group of armed men broke into the cash depot of the G4S premises. Having bludgeoned open the security doors and the roller garage door, they went in and removed over R11 million in cash. The petrified female cashiers, who were busy counting the money, sought refuge in the office within the counting hall. According to Mr Mphake, the technical support officer who was operating the

¹ *Van Wyk v The State and Galela v The State* [2014] 4 All SA 708 (SCA); 2015 (1) SACR 584 (SCA).

cameras, the incident lasted no more than 30 minutes. After the mayhem at the scene, the robbers fled the premises in various motor vehicles whilst firing gunshots.

[5] The arrest of the applicant occurred on 9 December 2015 at the Marble Hall Police Station, where he was employed as a constable in the South African Police Service (SAPS). Following his arrest, his motor vehicle and home were searched by the arresting officer, but no money was found. He was then booked into the police cells at Polokwane Police Station for the night. On 10 December 2015, he was booked out by police officers involved in the investigation of the robbery. It is common cause that he directed Warrant Officer Ramotebele and other police officers to a homestead of a healer/priest in Siyabuswa where he collected a parcel. The parcel turned out to be money, which was handed over to Warrant Officer Lombard. The money, totalling over R600 000, was counted in the applicant's presence. Later in the day, he made a statement to Colonel Serfontein.

[6] It is necessary that I should briefly summarise the evidence at the trial. A substantial part of the evidence on behalf of the State was given by Messrs Papo and Segoapa, who, upon their arrests, were indemnified in terms of s 204 of the Criminal Procedure Act 51 of 1977 (the CPA). They turned state witnesses. They were responsible for soliciting information and for recruiting a notorious robber, identified as Mr David Mokete, to organise a cash in transit heist. In turn, Mr Mokete, who had organised a group of men as part of the syndicate, met with Messrs Mpheroane, Papo and Segoapa at a taxi rank in Marble Hall. Amongst the men that came with Mr Mokete, were the applicant's erstwhile co-accused one and two, who came in a red BMW motor vehicle (BMW). In that meeting, Mr

Mpheroane detailed the route to be taken by the G4S truck transporting the money.

[7] A few days later, Mr Mokete called Messrs Papo, Segoapa and Mpheroane to a meeting. At the designated meeting place, besides the red BMW, there was another motor vehicle, a Volkswagen Caddy. As Mr Mpheroane was delayed at work, Messrs Papo and Segoapa were sent to meet him on the way. Having picked up Mr Mpheroane, the meeting place was moved to a place near Modimolle Road where they all assembled. At that meeting, they learnt that the targeted G4S truck on the route previously disclosed to them by Mr Mpheroane had been robbed by another group. This information angered Mr Mokete and the rest of the men who were at the meeting. Mr Mpheroane was accused of having double-crossed them. At that stage, a person only known as “Jeff” or “General”, the erstwhile accused number two, demanded from Mr Mpheroane that he disclose information about the G4S cash depot in Marble Hall which he did. Thereafter they all parted ways. According to the two state witnesses, all the meetings were held at night and were attended by several men unknown to them. That was the end of their role.

[8] A few days later they received a call from Mr Mokete in which he requested that they meet him at the Park Hotel. Mr Mokete, who came in a Mercedes Benz Sprinter, invited them in and gave them each a parcel. The parcels were placed in the school bags, which Mr Mokete had requested that they bring along. They each received a paltry amount of R200 000, when one considers that R11 million was stolen. They were also given a third parcel with money to give to Mr Mpheroane. They both hid their share of the loot in various places.

[9] Messrs Papo and Segoapa had then arranged to meet Mr Mpheroane at night on 10 December 2015 at a garage in Mokopane. On the day in question,

unbeknown to them, Mr Mpheroane was in the company of members of the SAPS' Directorate for Priority Crime Investigation (the Hawks) and the SAPS. They proceeded to the meeting as arranged. Upon their arrival at the meeting place, whilst walking around looking for Mr Mpheroane, the police arrested them. Mr Mpheroane had been the one to point them out to the police. Thereafter, they were taken into custody and detained. Mr Mpheroane was accused number four in the trial.

[10] According to Mr Mphake, who was alone in the control room with security cameras when the robbery took place, he had reported to his manager that a robbery had taken place and the robbers were leaving with the money. He testified that some security measures had been breached that night as certain cameras were bypassed, and the truck, which was often parked outside the shutter door to the counting hall, was not in place that night. He pointed out that Mr Mpheroane was the officer responsible for those security measures.

[11] I now relate how the erstwhile co-accused of the applicant were arrested. On 9 December 2015, Mr Frans Stone (Mr Stone), a police reservist with the SAPS, was on crime prevention duty in Pretoria. At about 15h00, he received a call from a Warrant Officer de Klerk, from the Hawks, Pretoria, alerting him of a red BMW with registration number JGG 791 GP that was coming from KwaMhlanga towards Pretoria. Shortly thereafter, the BMW drove past him at high speed, and he gave chase. It proceeded to Mamelodi Extension 17. At that stage he observed a police helicopter pass above him and shots were fired at the red BMW from the helicopter. Soon thereafter, the occupants exited the BMW. One of them, who had been shot in the leg, lay on the ground a few metres from the BMW. Whilst the helicopter hovered above them, Mr Stone handcuffed the two men and secured the crime scene. He confiscated a bag filled with money

from the injured man and took it back to the BMW. Inside the BMW, he found a 25-litre yellow plastic bin also filled with money. He then handed over the scene to Captain Beheit, who took photographs at the scene. Captain Beheit also took DNA swabs from various parts of the motor vehicle, the yellow plastic bin, plastic bags and the paper money and collected the various exhibits. The two men arrested at Mamelodi were accused one and two at the trial. It turned out that accused one was the person known as “Jeff” or “General” to the two state witnesses. This evidence was corroborated by Sergeant Masubulele, the officer in the helicopter that cornered the BMW and shot at one of its occupants.

[12] This application turns on whether the trial court should have convicted the applicant based on the confession, the DNA evidence, the pointing out, and whether the applicant had a case to answer.

[13] I will deal first with the quality and sufficiency of the DNA evidence upon which the trial court convicted the applicant. It was submitted on behalf of the applicant that this kind of circumstantial evidence was inadequate to sustain a conviction.

[14] On this aspect, the State led the evidence of Ms Jenny Cooks, a forensic analyst, attached to the Biology Section of the Forensic Science Laboratory in Arcadia, Pretoria (the Forensic Laboratory). She testified that she received case files from Mamelodi East Case 166/12/2015 and Case 58/12/2015 Marble Hall for DNA profiling. The case files from Marble Hall bore the following reference samples: Kgabo Mpheroane in kit 15DBAD1743EP in seal bag number PA4002643268, Maphaki Jojo in kit 10DBAC7654XX in seal bag number 10DBAC7654EB, and Sekwapa Johannes in kit 10DBAC7653XX in seal bag 10DBAC7653EB.

[15] At a later stage, further reference samples from Pretoria were received at the Forensic Laboratory. They bore the following references: Mokete D in kit 16DBAC6024EB in seal bag number PW4001364037, Moshe Moses Mogashane in kit 13DBAE0052EP in seal bag number PA5002190462 and Maphaki Jeffrey in kit 13DBAC1482EP in seal bag number PA5002161493. The samples were analysed, and DNA profiles were obtained from them.

[16] The DNA profiles obtained from the Pretoria samples were compared to swab F14 taken from the steering wheel, swab F24 from the left rear door panel and swab F32 which was from an earbud found in the BMW. These swabs matched the DNA results obtained from the reference samples marked Moshe Moses Mogashane. The subsequent finding related to swab F16 taken from the window control switch and F30 taken from the inside handle door. They matched the profile from the reference sample marked Maphaki Jeffrey. The DNA results obtained from swab F38 were taken from the yellow bin. The swab gave a mixture contributed by at least two persons. From this sample, the DNA characteristics matched the reference sample marked Komane David. This finding gave the most conservative occurrence of one in eight million people. Ms Cooks explained that, although this was a combination of different characteristics, including other individuals, it did not take away from the fact that the features of the sample marked Komane David were found in every region analysed in the mixture.

[17] Similarly, another mixture profile obtained from one of the swabs taken from the grocery bag in kit 14DCAY3024 contained in seal bag number PA4002025002 matched the DNA results of the reference sample marked Komane David. The most conservative occurrence for this mixture was one in

340 billion people. Lastly, the DNA results from the R50 notes in seal bag number PA4002283483 matched the reference sample marked Moshe Moses Mogashane.

[18] Two uncontroverted pieces of evidence against the applicant were established by the DNA evidence. First, a grocery bag and the yellow bin placed him at the place where the money was counted and shared. Secondly, the DNA evidence linked him to his erstwhile co-accused one and two, as the grocery bag and the bin were found in their motor vehicle. This conclusively proved that the applicant had been in their company shortly after the robbery and that he shared in the spoils of the robbery. To reject this evidence would require findings that the officers who apprehended the BMW in Pretoria lied about the origin of the bag and the yellow bin. The probabilities also do not support the submission made on behalf of the applicant that he could have touched the said items somewhere in Marble Hall, as there was no explanation proffered as to how the said items ended up in possession of his former co-accused persons. Though I accept that the applicant's DNA was not the extremely rare type, its concentration on the swabs, conclusively proved that he was likely the donor out of millions of people.

[19] Most conclusively, the DNA of the applicant was found in a single place with the DNA of his erstwhile co-accused one and two, who were involved in the planning and execution of the robbery from the outset. This cannot be said to have been a coincidence. The applicant sought to challenge the chain of evidence regarding the DNA evidence on the basis that the origin of the bin was not established. This was correctly rejected by the trial court as there was no evidence that suggested that the seals were tampered with.

[20] One must bear in mind that the cardinal rule is whether, on the conspectus of the evidence, it was established beyond a reasonable doubt that the applicant

committed the offences. It is unacceptable that any possibility, no matter how farfetched, should be elevated to a defence in law. Furthermore, no foundation was laid that the evidence may have been contaminated. Therefore, I conclude that the submission made on behalf of the applicant that this type of circumstantial evidence was not sufficient to sustain a conviction is without merit.

[21] Another issue raised on appeal was whether the trial court was correct to have admitted into evidence the applicant's statement made to Colonel Serfontein. It is trite that the State bears the onus to prove the admissibility of such evidence on a balance of probabilities. This means that the State bore the onus to prove that the statement made by the applicant was made freely and voluntarily (See *S v Kotze* 2010 (1) SACR 100 (SCA) para 20). Section 35(5) of the Constitution also provides that 'evidence obtained in a manner that violates any right in a Bill of Rights must be excluded if the admission of that evidence would render the trial unfair or otherwise be detrimental to the administration of justice'.

[22] With these principles in mind, I closely examine the facts of the case in relation to the admissibility of the statement made to Colonel Serfontein. The applicant appeared before Colonel Serfontein in Marble Hall at about 22h25 on 10 December 2015. This was due to the late arrival of Colonel Serfontein, who was coming from Pretoria. On behalf of the applicant, it was contended that Warrant Officer Makhubela should have been called as a witness in the trial-within-a-trial regarding an alleged assault. It was further submitted that the applicant was not afforded legal representation when he appeared before Colonel Serfontein. Lastly, that the statement that he made to Colonel Serfontein was dictated to him by Colonel Brinkman, who was involved in the investigation of the matter.

[23] In giving the statement to Colonel Serfontein, it was contended that due to threats and assaults that had been meted out to the applicant earlier, he did not act freely and voluntarily. The fear of further assault induced him to make a statement to Colonel Serfontein, so it was contended. The evidence of the police officer and the interpreter who assisted Colonel Serfontein was that they did not observe any eye injury on the applicant that was allegedly inflicted by Warrant Officer Makhubela and the other police officers at the time of his arrest. The evidence given in the trial clearly showed that the assault related to the pointing out, not the making of the statement to Colonel Serfontein. It was not explained why he denied to Colonel Serfontein that he had been assaulted or induced in any form to make a statement to him. I accept that Colonel Serfontein knew that the applicant was entitled to legal representation specifically for the purpose of taking the statement. This is clear from the recording of the response given by the applicant, where he said: 'I have a legal representative who will come to court, I do not need him now'. He mentioned that his legal representative's name was Mr John Grobler. The emphasis on whether he required the services of an attorney there and then is clear from the articulated response, with an emphasis on the word now. The proforma document was completed perfectly and read back to the applicant in English. This was confirmed by the interpreter, who was present when the statement was taken.

[24] The detailed nature of the statement given by the applicant to Colonel Serfontein showed that he had personal knowledge of the events. The time at which Colonel Brinkman had allegedly spoon-fed him what to state would not have enabled him to recall with such precision the names of people and how the events unfolded in such detail. There was also no explanation for why the applicant failed to report Colonel Brinkman to Colonel Serfontein. Consequently,

I cannot find that the trial court erred in its admission of the statement by the applicant to Colonel Serfontein. Neither did the trial court err in finding that the statement made amounted to an unequivocal admission of guilt by the applicant.

[25] The applicant challenged the evidence adduced by Warrant Officers Ramotebele, Makhubela and Siyebi regarding the pointing out. In its judgment, the trial court did not detail the process of the pointing out, save to acknowledge that the police officers corroborated one another as to how the money was recovered, and the trial court rejected the evidence of the healer/priest, Mr Johannes Mampane, that the applicant came to collect medication from him. The transcript reveals that the learned judge referred to Mr Mampane's evidence as follows: 'It is sh...t'. Assuming that this transcription is accurate, it warrants this Court noting its disapproval. It is unacceptable for a judicial officer to use profane language in a judgment. It is offensive, to say the least. As judicial officers, we need to show decorum and respect to everyone, irrespective of their station in society or the nature of the evidence they give. Nothing stopped the judicial officer from making credibility findings if he did not believe in the veracity of Mr Mampane's testimony.

[26] The evidence relating to the recovery of the money was not treated as evidence in a pointing out, nor was a trial within a trial held in respect thereof. The testimony of Warrant Officers Makhubela and Ramotebele indicated that the applicant volunteered to show them what they believed was his share of the loot, whereas Warrant Officer Siyebi's testimony was that the pointing out of the loot came out after they had interrogated the applicant. To the extent that there is a discrepancy between the testimonies of the three officers, who were all referring to the conduct of one person, the prosecutor should have cautioned the trial judge to rather hold a trial within a trial to clear up the glaring discrepancy. This would

have given the Warrant Officers an opportunity to explain it as best as they could. The prosecutor is placed in a better position than the trial judge as he/she is in possession of the witness statements and consults with witnesses before they give testimony in court.

[27] Warrant Officer Makhubela should have arranged for a pointing out as he testified that during the arrest of the applicant on 9 December 2015, he had offered to point out where the money was hidden. Warrant Officer Ramotebele, together with the rest of the non-commissioned officers, ought not to have proceeded with the pointing out. This is because the pointing out process must be conducted by an officer who was not involved in the investigation of the matter. In this case Warrant Officer Ramotebele and others, by virtue of being the investigating officers in the case, were precluded from carrying out the pointing out. Warrant Officer Ramotebele's assertions that the applicant had been apprised of his legal rights did not ratify the flawed process, as the law requires that the accused be apprised of the right to legal representation specifically for the purposes of conducting a pointing out. The evidence of Warrant Officer Ramotebele that the applicant allegedly stated that he was well versed in his legal rights should not have been accepted by the trial court as the applicant was a constable, a very junior officer in the SAPS. In *S v Lubaxa* [2002] 2 All SA 107 (A), this Court held that what entails a fair trial must be determined by the circumstances of the case. The circumstances of the present case required that independent persons conduct the pointing out.

[28] During the trial, in cross-examination, the applicant challenged the admissibility of the evidence obtained by the pointing out on the basis that it was not made freely and voluntarily. Section 218(2) of the CPA entitles the prosecution to adduce evidence of a pointing out of a thing or discovery of a fact

and, to that end, the accused person is precluded from objecting to such evidence on the ground that the pointing out formed part of an inadmissible confession. However, it does not do away with the applicability of s 217(1) of the CPA, which provides that a confession should have been made freely and voluntarily by a person in his sound and sober senses without having been unduly influenced to do so.

[29] The contradiction between the evidence of Warrant Officers Ramotebele and Siyebe as to how the applicant offered to disclose where the money was hidden should have been considered by the trial court judge. Counsel for the applicant correctly conceded that what was collected was the money and not medication for the applicant. Section 217(1) of the CPA is clear irrespective of what was collected. The applicant was entitled to the procedural safeguards that apply to arrested, detained and accused persons in the criminal process. Section 35(3) of the Constitution sets out an accused's right to a fair trial. Equally trite is that the rights contained in s 35(1) of the Constitution, including the right not to be compelled to make a confession or an admission that can be used against them, apply to arrested and detained persons from the inception of the criminal process (see *S v Sebejan and Others* 1997 (1) SACR 626 (W)). Even if it can be accepted that the applicant waived his rights to legal representation, that did not extend to a waiver of a procedurally fair criminal process. Mr Ramotebele acted contrary to the procedure followed by the officers who arrested Mr Mpheroane.

[30] In *Gama v S* [2013] ZASCA 132, a confession was made to an undercover policeman. This Court held, at para 13, that such evidence should have been tested by a trial within a trial because of the oral nature of the confession. It also held, at para 6, that '[i]t is necessary to record at the outset that the State did not alert the trial court at all that it would be tendering evidence which may amount to a

confession'. It concluded that 'this was a fundamental miscarriage of justice'. On these facts, even if the prosecutor did not indicate that the evidence of the pointing out may be challenged, the trial court, when it became clear that it was challenged, should *mero motu* have embarked on a trial within a trial.

[31] In *Makhokha v S* [2013] ZASCA 171, the sole basis for a conviction was a statement made by the appellant to Inspector Ramovha. The statement was read informally into the record, and the appellant did not, during the trial, challenge the admissibility thereof, and no trial within a trial was held. The appellant on appeal, argued that the statement amounted to a confession. This Court held that the statement was not made to a peace officer as Inspector Ramovha was not a commissioned officer, and the statement did not comply with the other requirements of s 217(1) of CPA, which provides that a confession shall only be admissible if confirmed and reduced to writing by a magistrate. This Court held that the confession was inadmissible because the confession was made to an inspector and not a peace officer, nor was it confirmed and reduced to writing by a magistrate or justice.

[32] In *S v Nkosi* 1980 (3) SA 829 (A), this Court affirmed the view that, although it is the duty of the prosecuting counsel to investigate the surrounding circumstances to satisfy themselves of the propriety of proving the admission, it is the ultimate duty of the trial judge to satisfy themselves as to the admissibility of the admission.

[33] The manner in which the pointing out by the applicant was conducted goes against what is prescribed in s 217(1) of the CPA, which ought not to be countenanced in any court under a constitutional democracy (see *S v Molimi*

[2008] ZACC 2; 2008 (3) SA 608 (CC); 2008 (5) BCLR 451 (CC); 2008 (2) SACR 76 (CC)).

[34] However, there is sufficient circumstantial evidence on which the applicant was convicted. The failure by the applicant to testify in his defence and in the face of overwhelming prima facie evidence against him, led that prima facie evidence to be proof beyond reasonable doubt. This Court has stated and repeated this trite principle of the right to remain silent. It held in *S v Boesak* [2000] ZASCA 24 that an accused has the right to remain silent but does so well-advised of the consequences of the exercise of his right to remain silent. It is a choice made consciously.² The applicant's silence also indicates that he was not taking the court into his confidence. As a result, the evidence adduced on behalf of the State was the only evidence that was before the trial court as the applicant failed to testify. I can only repeat what this Court stated in *S v Chabalala* 2003 (1) SACR 134 SCA at para 20, where it said:

‘As was pointed out in *S v Mthetwa* 1972 (3) SA 766 (A) at 769D:

“Where . . . there is direct *prima facie* evidence implicating the accused in the commission of the offence, his failure to give evidence, *whatever his reason may be* for such failure, in general, *ipso facto* tends to strengthen the State case, because there is nothing to gainsay it, and therefore less reason for doubting its credibility or reliability; see *S v Nkombani and Another* 1963 (4) SA 877 (A) at 893G and *S v Snyman*, 1968 (2) SA 582 (A) at 588G.”.

[35] The applicant's challenge to the evidence is in a piecemeal fashion. This Court, in *S v Reddy and Others* 1996 (2) SACR 1(A) at 8C-D warned against this, where it stated as follows:

‘In assessing circumstantial evidence one needs to be careful not to approach such evidence upon a piece-meal basis and to subject each individual piece of evidence to a consideration of

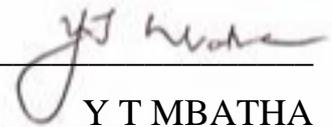
² See also *President of the Republic of South Africa and Others v South African Rugby Football Union and Others* 2000 (1) SA 1 (CC); 1999 (10) BCLR 1059 (CC).

whether it excludes the reasonable possibility that the explanation given by an accused is true. The evidence needs to be considered in its totality. It is only then that one can apply the oft-quoted dictum in *Rex v Blom* 1939 AD 188 at 202-203, where reference is made to two cardinal rules of logic which cannot be ignored. These are firstly that the inference sought to be drawn must be consistent with all the proved facts and secondly, the proved facts should be such “that they exclude every reasonable inference from them save the one sought to be drawn”.’

[36] I am satisfied that the trial court’s approach to the evaluation of the evidence was correct. It considered the totality of the evidence and, in that process, weighed the evidence of the state witnesses holistically against that of the applicant. As appears above, the applicant failed to explain how his DNA ended up on a grocery bag and the yellow bin containing the stolen money. He also failed to explain why his DNA was found on the articles found in the motor vehicle belonging to people who were found to have been involved in the robbery. The trial court, in my view, rightfully rejected his untested evidence.

[37] The sentiments expressed by this Court in *S v Ntsele* 1998 (2) SACR 178 (SCA) are relevant, where it held that the onus rests upon the State in criminal proceedings to prove the guilt of the accused beyond a reasonable doubt, not beyond all shadow of a doubt. The Court in *Ntsele* further held that when dealing with circumstantial evidence, as in the present matter, the court was not required to consider every fragment individually. It was the cumulative impression, with all the pieces of evidence made collectively, that had to be considered to determine whether the accused’s guilt had been established beyond a reasonable doubt. The applicant’s challenge to the evidence was in a piecemeal fashion. Courts are warned to guard against the tendency to focus too intensely on separate and individual components of evidence and view each component in isolation.

[38] In sum, the DNA evidence and the confession, together with all the other evidence, was sufficient to prove beyond reasonable doubt that the applicant, together with all his erstwhile co-accused, were complicit in the commission of the robbery with aggravating circumstances, as proven by the State. The trial court, therefore, convicted him correctly. The application is dismissed.



Y T MBATHA
JUDGE OF APPEAL

APPEARANCES:

For Appellant:

L M Manzini

Instructed by:

Legal Aid, Polokwane

Legal Aid, Bloemfontein

For Respondent:

L Mashiane

Instructed by:

Director of Public Prosecutions, Polokwane

Director of Public Prosecutions, Bloemfontein.