IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO.: A288/22

(1)	REPORTABLE: YES / NO
(2)	OF INTEREST TO OTHER JUDGES: YES/NO
(3)	REVISED.

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In the matter between:

PRINCE CHARLES MOKOENA Appellant

and

THE STATE Respondent

JUDGMENT

van der Westhuizen, J

[1] The appellant was convicted and sentenced in the Regional Court of Gauteng held at Cullinan. He was convicted on a charge of the rape of a minor and was sentenced to life imprisonment. It was further directed

that his name was to be enrolled in the national register of sexual offenders. He was further declared unfit to possess a firearm.

[2] The conviction followed on the contravention of section 3 of Act 32 of 1997 read with the provisions of section 51(1) of the Criminal Law Amendment Act, 105 of 1997. The appellant was convicted on the said charge on 24 November 2020 and sentenced to life imprisonment on 10 February 2021.

[3] Throughout the criminal proceedings, the appellant enjoyed legal representation.

[4] In view of the life sentence, the appellant enjoyed an automatic right of appeal. This appeal was directed at both the conviction and sentence. When the matter was called, counsel appearing on behalf of the appellant conceded the conviction and only continued with the appeal against sentence. The respondent accepted the concession in respect of the conviction. It follows that the appeal against conviction stands to be dismissed.

[5] The main premises upon which the appeal against sentence was argued were as follows:

(a) The appellant was 34 years old at the time of the commission of the rape and 36 years old when convicted. He was young and had a long life ahead of him;

(b) He was the father of a minor whose mother had died. The appellant’s daughter did not live with him;

(c) He was gainfully employed;

(d) The appellant had as sole provider his grandmother and never had a father figure in his life;

(e) He was incarcerated for a period of two years before being convicted;

(f) That the appellant was inebriated and the alcohol induced a lesser blameworthiness upon him. However, no evidence was presented in support of that submission and it remained a mere submission on the part of the appellant's counsel.

[6] The complainant was 12 years old when the rape was committed. That horrific deed was perpetrated in the bedroom of the minor's mother. The latter was heavily inebriated and had passed out on the sofa in the lounge. After the rape, the minor could not wake her mother and was forced to go out in the rain to find help. The appellant and his girlfriend were accommodated for the evening in the home of the minor's mother. He had a love relationship with the cousin of the minor's mother. After the rape and the reporting thereof, the appellant was found in the same bed where the minor had slept. His girlfriend slept in another room that was made available to them.

[7] Although the appellant had a previous conviction for possession of dagga, the learned regional magistrate considered the appellant as a first offender. Furthermore, the regional magistrate took into account that the appellant was gainfully employed at the time and that he was incarcerated for a period of two years before being convicted. Also the facts that the appellant had no father figure in his life and that his grandmother was his sole provider were also taken into account.

[8] The court *a quo* found that the appellant did not show remorse and maintained his innocence on an improbable and implausible version.

[9] In my view, the court *a quo* correctly dealt with all the relevant facts and principles when considering the issue of sentence, and in particular whether there existed substantial and compelling reasons to deviate from the minimum prescribed sentence of life imprisonment on

a conviction of the rape of a minor.[1] The psychological effect of the horrendous deed of rape upon the minor was further of importance and taken into consideration by the regional magistrate. The minor is to suffer the traumatic experience of the rape for the rest of her life.[2] The regional magistrate cannot be faulted in his approach to the issue of sentence.

[10] Consequently, the court *a quo* correctly found that no substantial and compelling circumstances existed to warrant a deviation from imposing the prescribed minimum sentence of life imprisonment for the rape of a minor.

[11] It follows that the appeal against sentence cannot succeed and stands to be dismissed.

I propose the following order:

The appeals against conviction and sentence are dismissed.

C J VAN DER WESTHUIZEN
JUDGE OF THE HIGH COURT

I agree

(Ms) L FLATELA
JUDGE OF THE HIGH COURT

It is so ordered

[1] *S v Malgas* 20011 SACR 469 (SCA)
[2] See *S v Chapman* 1997(2) SACR 3 (SCA) 5a-b

On behalf of Applicant:	S Moeng
Instructed by:	Legal Aid SA
On behalf of Respondent:	L A More
Instructed by:	NDPP
Date of Hearing:	29 February 2024
Judgment Delivered:	20 March 2024