



***THE SUPREME COURT OF APPEAL
OF SOUTH AFRICA***

Case number :
098/05
Not reportable

In the matter between :

HOPEWELL JABULANI SIKHOSANA
APPELLANT

and

THE STATE

RESPONDENT

CORAM : CAMERON, CONRADIE et CLOETE JJA

HEARD : IN CHAMBERS

DELIVERED : 3 NOVEMBER 2006

Neutral citation: This judgment may be referred to as *Sikhosana v S* [2006]

SCA 133 (RSA).

JUDGMENT

CLOETE JA/

CLOETE JA:

[1] The appellant was one of six accused convicted in the Venda High Court of murder and robbery with aggravating circumstances. All were sentenced to life imprisonment on the murder charge. Accused 6, Mr Samson Shonisani Ralukukwe, appealed to this court. His conviction and sentence were set aside.

[2] In its judgment, this court said:

‘On the above analysis, and to put the position at its lowest, it would seem that accused 4 and 5 may also have been wrongly convicted. Counsel representing the State on appeal could point to no additional facts which would put them in a different position to the appellant. I would accordingly request the Venda and Bloemfontein Justice Centres, which represented the appellant in this appeal, to apply for leave to appeal on behalf of accused 4 and 5 as a matter of urgency once the necessary powers of attorneys have been obtained. It would be desirable, particularly in view of the length of the record, for any appeal by accused 4 and 5 to be heard by this court as presently constituted and we have retained our copies of the record to obviate the expense of a new record being prepared.’

[3] Having obtained a power of attorney from the appellant, the Venda Justice Centre applied to the Venda High Court for leave to appeal on behalf of the appellant, who was accused 4. Accused 5 had died in prison. Leave was granted, without opposition from the State, on 12 September 2006.

[4] The representative of the State, in his heads of argument filed in this court, conceded the appeal – in my view correctly – and indicated that there would be no appearance for the State unless this court directed otherwise. It was accordingly unnecessary for oral argument to be heard and the appeal was dealt with in chambers.

[5] This court is grateful for the assistance of the Venda and Bloemfontein Justice Centres.

[6] The conviction of the appellant and the sentence imposed on him are set

aside.

T D CLOETE
JUDGE OF APPEAL

Concur: Cameron JA
Conradie JA