

IN THE HIGH COURT

(BISHO)

CASE NO.: CA&R49/2001

DATE: 19 OCTOBER 2001

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In the matter between:

SANDILE MGANDELA

versus

THE STATE

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JUDGMENT: (Application leave to appeal)

PICKARD JP;

My learned Brother has given a lengthy and comprehensive judgment in this matter. We have considered all the evidence very carefully. We have been at pains to be cautious about the evidence of two policemen in regard to an accident where a police vehicle was involved. We have considered what we think to be every possibility in this case. I am of the view that the evidence is quite clear in that the collision is not in dispute, even the nature of the collision is not really disputed in any way. The fact that the appellant could not stand properly, could not walk properly, could not speak properly, smelt of liquor, that his eyes were bloodshot according to one witness, and was then immediately taken as soon as transport was available to the hospital for blood to be drawn, is indicative of only one fact and that is that all the witnesses that were called were convinced that he was under the influence of liquor and very severely so. His evidence amounts to a bear denial of virtually everything save to admit that he had been

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drinking, there are also suggestions that his wife suggested that he should not permit an examination of his blood, there was also suggestions that he tried to slip away in another car that came on the scene, to get away from such an examination. The man is a prosecutor by profession, he attempts to explain away his failure to react and to interact with the police at the scene because he wanted to cause no trouble, if that were so and if that is the true reason then clearly he was in great fear that if he caused any trouble it would just make matters worse for him.

I am satisfied that this case is so clearly proven irrespective of the magistrate's errors that he may have committed in his considerations that I do not believe that another Court can come to another conclusion.

In my view leave to appeal should be refused.

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B de V PICKARD

JUDGE PRESIDENT : BISHO HIGH COURT

EBRAHIM J:

I agree.

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Y EBRAHIM

JUDGE : BISHO HIGH COURT