

NOT REPORTABLE

IN THE HIGH COURT OF SOUTH AFRICA

(EASTERN CAPE LOCAL DIVISION, PORT ELIZABETH)

In the matter between:

Case No: CC 26/2016

CHRISTOPHER CONSTANTINOU PANAYIOTOU

First Applicant

SINETHEMBA NEMEMBE

Second Applicant

ZOLANI SIBEKO

Third Applicant

And

THE STATE

Respondent

Coram: **Chetty J**

Heard: **16 May 2018**

Delivered: **17 May 2018**

JUDGMENT

Chetty J:

[1] Historically, the criterion adopted by our courts in regard to the question of leave to appeal was whether there was a reasonable prospect of success. The benchmark now finds legislative expression in sec 17 of the Superior Courts Act¹ which provides that leave to appeal may only be given where the judge or judges concerned are of the opinion that the appeal would have a reasonable prospect of success or there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration.

[2] Procedurally, the grounds upon which an application for leave to appeal are predicated are required to be clearly and succinctly tabulated in unambiguous terms to enable both the prosecuting authority and the court to determine its parameters. The first applicant's notice of application for leave to appeal is unfortunately not a model of clarity and offends against the spirit and purport of section 316 of the **Criminal Procedure Act**². It constitutes an amalgam of inane and vituperative comment, and is moreover interspersed with belligerent innuendo. Such deficiencies ordinarily warrant that the application be struck from the roll but to do so would ultimately serve no useful purpose and merely delay the inevitable outcome of this application.

[3] The grounds upon which leave is sought on behalf of the second and third applicants are, in essence a regurgitation of the submissions advanced at the trial, matters which were fully addressed in my judgment.

¹ Act No. 10 of 2013

² Act No, 51 of 1977

[4] The oral and written arguments advanced by Mr *Price* studiously circumvent the factual matrix which not only underpins the conviction but established beyond any doubt that the first applicant, *Christopher Panayiotou* orchestrated his wife, *Jayde's* murder. The judgement on the other hand documents the full extent of the plan which he and *Siyoni* devised. Consequently, the attack against the judgment had perforce to avoid the crucial findings and focus instead on a plethora of disingenuous suppositions, the real victim, *Jayde*, now being supplanted by other would be victims in the personage of the first applicant, *Siyoni* and *Breakfast*. As I emphasized in the judgment, the only victim is *Jayde*. The prolix heads of argument serves only to obfuscate the real issues and to inveigle me to grant leave. The submissions advanced by Mr *Price* merely amplify the grounds upon which leave is sought and are, on cogent analysis, entirely without merit. In my view, the contemplated appeal by the applicants would have no reasonable prospect of success nor is there any compelling reason why it should be heard. In the result the following order will issue:

1. The applications for leave to appeal by the applicants are dismissed.

D. CHETTY

JUDGE OF THE HIGH COURT

Obo First Applicant:

Adv T.N. Price SC

Instructed by

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