


Sneller Verbatim/mc

IN THE HIGH COURT OF SOUTH AFRICA(WITWATERSRAND LOCAL DIVISION)JOHANNESBURG

CASE NO: SS115/01

2002-02-26

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DELETE WHICHEVER IS NOT APPLICABLE	
(1) REPORTABLE YES /NO	
(2) OF INTEREST TO OTHER JUDGES	YES/NO
(3) REVISED ✓	
DATE 8/4/2002	SIGNATURE 

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In the matter between

THE STATE

and

MSAWENKOSI THIMOTHY TSHABALALA

Accused

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J U D G M E N T (Leave to Appeal)

WILLIS J: Immediately after I pronounced sentence in this matter, Mr Duvenhage for the accused made application for leave to appeal.

It is common cause that the person Dumisani Madonsela was known to both the eyewitness and the accused. There is in my view a slender possibility that the eyewitness could himself have been a participant in the attack on the deceased, together with Madonsela. That he could have known that Madonsela was in possession of a firearm belonging to the accused and therefore falsely implicated the accused on the attack.

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In my view there is a reasonable prospect that another court will elevate this slender possibility to one that could in all the circumstances reasonably possibly be true.

Accordingly, in my view, there are reasonable prospects of success in an appeal against conviction. It seems to me appropriate in the circumstances to give leave to appeal against conviction and sentence. The issues of law and fact in my view do not merit the attention of the Supreme Court of Appeal and accordingly I shall direct that the appeal be heard by the Full Bench of this Division.

The following order is granted:

ORDER

1. Leave is granted to appeal against conviction and sentence.
2. It is directed that the appeal be heard by the Full Bench of the Witwatersrand Local Division.

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