

REPUBLIC OF SOUTH AFRICA



**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG LOCAL DIVISION, JOHANNESBURG)**

CASE NO: A47/2019

In the matter between

KHUMALO BONGANI

FIRST APPELLANT

MAGUBANE MABUTHO

SECOND APPELLANT

and

THE STATE

RESPONDENT

SUMMARY

Criminal Law – Appeal - appellants convicted in Regional Court of theft - involving 112 truck tyres to the value of some R4m - sentence of 7 years' imprisonment each imposed - appeal against conviction and sentence with the leave of High Court on petition for leave to appeal - evidence adduced against the appellants was entirely circumstantial - both the appellants testified in their own defence and in essence denied having been involved in the theft of the tyres - trial court held that the circumstantial evidence sufficient to prove the appellants' involvement in the

commission of the theft beyond reasonable doubt - facts of the matter examined and evaluated - court enjoined to consider not each separate fact individually but the evidence as a whole - three uncontroverted incriminating portions of circumstantial evidence against the appellants - their bare denial not reasonably possibly true - conviction unassailable.

Sentence - no misdirection - personal circumstances of the appellants duly considered by trial court - no reason to interfere - appeal dismissed.