



## THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

### MEDIA SUMMARY – JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 28 September 2011

Status: Immediate

*Please note that the media summary is intended for the benefit of the media and does not form part of the judgment of the Supreme Court of Appeal*

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#### *De Vries v The State*

The five appellants were among 11 accused tried in the high court on various charges under the Prevention of Organised Crime Act 121 of 1998 (POCA) as well as various other offences. The trial which commenced in August 2005 ran for some three years and resulted in all five appellants being convicted on some or other of the charges.

The five appellants sought leave to appeal. Leave to appeal was granted only in respect of the fifth appellant, Achmat Mather. However, the trial court also made two special entries relating to the conviction of all five appellants. The first special entry related to the provisions of the National Director of Public Prosecutions' authorisation of the prosecution under s 2(4) of POCA and the centralisation certificate issued under s 111 of the Criminal Procedure Act 51 of 1977. Only the fifth appellant appeared before the Supreme Court of Appeal, the first four appellants seemingly having decided to abide the decision of the court in regard to the special entries.

The state's case against the fifth appellant, Achmat Mather, was that he had purchased large quantities of cigarettes which had been stolen in robberies when large vehicles had been hijacked by members of a gang. The fifth appellant had been identified as the purchaser of

the cigarettes by a member of the gang who gave evidence on behalf of the state. His identification was attacked on appeal but the Supreme Court of Appeal today found that the fifth appellant had been properly identified as the recipient and purchaser of the stolen cigarettes, and that he had done so well knowing that the cigarettes had been stolen. As theft is a continuing crime, the court held the fifth appellant made himself guilty on two counts of theft relating to the two incidents when he had purchased stolen cigarettes from the gang. It also concluded that his actions in purchasing the cigarettes for resale amounted to 'money laundering' as envisaged in s 4 of POCA, resulting in him being convicted on two counts under that section as well.

It was the state's case that, in addition to the two counts of theft and two counts of money laundering, the fifth appellant had committed an offence of racketeering under s 2(1)(e) of POCA. This argument had been accepted in the high court and the fifth appellant had been convicted on that charge. It was argued before the Supreme Court of Appeal that it was impermissible to do so as it would amount to a splitting of charges or duplication of convictions between the racketeering charge on the one hand and the offences of theft of money laundering on the other. This argument was rejected by the Supreme Court of Appeal which found that the racketeering offence was a separate and discrete offence from the underlying predicate charges of theft and money laundering.

The appeal was therefore dismissed.

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