

MEDIA STATEMENT – CASE HEARING IN SUPREME COURT OF APPEAL

N P Nonyane v The State

Supreme Court of Appeal -256/05

Hearing date: 02 March 2006

Judgment date: 20 March 2006

Rape – version of complainant not corroborated – no reason to reject appellant's evidence and that of defence witness – guilt not proved.

Media Summary of Judgment

On 2 March the SCA set aside the conviction of a school teacher who was found guilty by a regional magistrate of raping an eleven year old schoolgirl. The Bophuthatswana High Court confirmed the conviction, sentenced the appellant to life imprisonment and refused leave to appeal. The appellant spent four and a half years in custody before being released by the SCA immediately after the appeal had been argued.

In its reasons furnished today the SCA said that the magistrate had committed a number of misdirections: He failed to have regard to the fundamental differences between the version of the complainant and the version of the appellant which was corroborated by a defence witness; he ignored the evidence of the defence witness; he found corroboration of the complainant's version when there was none; and he criticised the appellant's evidence on grounds which were insupportable.

The SCA held that the appellant should have been acquitted by the magistrate and that the High Court should have set the conviction aside.