



## **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** 16 March 2018  
**STATUS** Immediate

#### **Phetoe v State (1361/2016) [2018] ZASCA 20 (16 March 2018)**

*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.*

The SCA today upheld an appeal and set aside and substituted the decision of the Gauteng Local Division of the High Court, Johannesburg.

The appellant stood trial with six co-accused on eight counts of housebreaking with intent to rob and robbery with aggravating circumstances, eight counts of common law rape, perpetrated on numerous complainants, one count of attempted robbery, three counts of assault with intent to do grievous bodily harm, two counts of malicious damages to property and two counts of assault. The appellant was convicted in January 2000 on all counts and sentenced to life imprisonment in respect of the rape convictions as well as sentences ranging from two to 20 years' imprisonment in respect of the other convictions.

In June 2016 the full court upheld the appellant's appeal against convictions on the eight counts of common law rape and substituted them with convictions as an accomplice to those rapes and re-imposed eight sentences of life imprisonment. The appellant appealed to this court against his convictions and sentences with the exception of count 9.

The SCA held on appeal that there was no evidence to prove that the appellant was present at the scenes of violence where the rapes, assaults, housebreakings, robberies and other offences were being committed other than at the household of Ms Mothobi and Ms Ncumisa. The State failed to prove the requirements of the doctrine of common purpose for the appellant to be held criminally accountable.

In the event, the SCA confirmed the appellant's conviction and sentence in respect of count 9 and found the convictions and sentences in respect of the remaining counts to be set aside.