

**IN THE HIGH COURT OF SOUTH AFRICA
EASTERN CAPE DIVISION, MTHATHA**

CASE NO.: CC128 / 2010

In the matter between

THE STATE

VS

BRADLEY VAN ROOYEN

THE ACCUSED

JUDGMENT ON SENTENCE

MTHEMBU A J

INTRODUCTION

1] The accused,

BRADLEY van ROOYEN,

an adult male, 35 years old, has been convicted of sexual assault, of his niece, S H, a 10 year old step daughter of his younger brother, N, and his wife, Barbara van Rooyen, in contravention of **SECTION 5 (1)** read with the provisions of **SECTIONS 1, 56 (1), 57, 58, 59, 60 and 61 of the CRIMINAL LAW [SEXUAL OFFENCES AND RELATED MATTERS]**

AMENDMENT ACT 32 OF 2007.

CRIMINAL LAW AMENDMENT ACT, 105 OF 1997 AS AMENDED

2] At the outset I would like to deal with the question, whether the State is correct in invoking and relying on the Criminal Law Amendment Act in the prosecution of the offence of sexual assault against the accused.

In the last paragraph of the indictment the State intimates that it seeks to invoke and rely on the provisions of **SECTION 51 OF THE CRIMINAL LAW AMENDMENT ACT, 105 OF 1997 AS AMENDED**, in that, *"the complainant was under the age of 16 years at the time the offence was committed."*

It is common cause that the promulgation of the Criminal Law Amendment Act 105 of 1997 predates the **CRIMINAL LAW [SEXUAL OFFENCES AND RELATED MATTERS] AMENDMENT ACT, 32 OF 2007**. THE CRIMINAL LAW (SEXUAL OFFENCES AND RELATED MATTERS) AMENDMENT ACT was assented to on 13 December 2007 and came into operation on 16 December 2007.

The Criminal Law Amendment Act came into operation on 1 May 1997, it details a catalogue of certain "serious offences" that fall within its purview and their corresponding prescribed minimum sentences.

The offence of sexual assault is not one of those offences which are

specified to fall within the purview of the Criminal Law Amendment Act.

- 3] On that aspect and in that respect, the indictment is incorrectly couched, in that it seeks to invoke and rely on the Criminal Law Amendment Act in the prosecution of an offence [sexual assault] which does not fall within the aegis of the Criminal Law Amendment Act.

Both Counsels for the state and the defence, in their submissions, agreed that a charge of sexual assault cannot, in its prosecution, be read with the provisions of the Criminal Law Amendment Act, given that it is not one of the offences specified to resort within the provisions of the Criminal Law Amendment Act.

- 4] Before coming to the difficult task of determining the appropriate sentence to impose on the accused, I wish to thank the legal representatives of the State [Mr Joubert] and the defence [Mr Hanise] for the responsible and competent manner in which they conducted this case and the considerable assistance they provided to the court by means of their arguments and submissions.

- 5] The facts upon which the conviction is based are fully set out in the written judgment of the court. I do not propose to repeat those facts when dealing with the question of sentence, except only in so far as it

may be necessary to refer to them for the purpose of sentence.

Coming to the question of sentence this is, undoubtedly, the most difficult part of the whole trial. This so because there are so many disparate interests and considerations which the court must take into account when determining the appropriate sentence to impose on the accused in any particular case.

- 6] In the old and well known passage, **HOLMES JA, in S vs RABIE 1975 (4) SA 855 A**, held ;

"punishment must fit the crime as well as the criminal, be fair to society, and be blended with a measure of mercy according to the circumstances."

This old dictum captures the 3 elements of the triad, the crime, the offender, the interest of society and the element of mercy which must be considered and applied according to the circumstances of the case.

PERSONAL CIRCUMSTANCES

- 7] The mitigating factors submitted on behalf of the accused, which arise for consideration are that the accused was born on 24 April 1977, which makes him 35 years old and resides at No.16 Swift Street, Southernwood, Mthatha. This residence is his parent's home, he stays there with his

parents, who are old and pensioned, his brother, Nicholas and his niece, Bridget. He is a mechanic by trade and has been employed as such by Five Star Motors, Mthatha, from July 2011 to date, earns a salary of R 3000,00 per month, out of which he supports his parents and his 2 children, namely;

- Nikehill; and
- Brownwyn

The mother of his 2 children, Renne, is the caregiver and exercises parental rights over them. The children attend school at St Johns Primary School in East London. Renne is not of good health, unemployed and the accused is the only parent responsible for the maintainace and support, financially and otherwise of the 2 children. The accused passed Std 10 (matric) at Kokstad College in 1994. He is a first offender and has no cases pending against him.

CRIME COMMITTED

A. THE DEFENCE SUBMISSIONS

- 8] Counsel for the accused, Mr Hanise, submitted that in the commission of this offence, on the day in question, the accused had consumed alcohol to such an extent that it affected him and played a major contributing role in

the commission of this offence. He submitted that sexual assault is a serious offence and prevalent in this division. He conceded that the accused breached and betrayed the trust bestowed on him, as an uncle, to protect, the complainant, who is his niece.

Counsel explained the effects of committing this offence to the accused himself, the family members and how it destroyed the unity and good family relations among members of his family.

- 9] The court was advised by Counsel that because of the sexual violation he committed against the complainant, the accused, has learnt a lesson and this experience made him to mend the ways of his behaviour towards the community and his family. It was urged upon the court to note that a conviction for the crime for sexual assault spells failure and doom for the accused's future in that a previous conviction of sexual assault has the effect to hinder progress in securing employment, since the enquiry, whether the accused has previous convictions, has become a standard question, requiring disclosure if anyone applies for employment, both in private or public sectors.

- 10] Counsel submitted that the accused craves for "forgiveness" from the complainant, his brother, N, and his wife Barbara. It was recounted to the court that this matter commenced in 2009 and has been hanging like a

sword over his head from 2009 – 2011 [2 years]. The arrest and trial of the accused for this offence has already made the accused to suffer the loss of friends, loss of his family, his children, loss of providing a father figure to his children, loss of employment and an income to be derived from his work, which could be utilized to maintain his children, himself and his parents. Counsel described the accused as the type of a first offender, who is capable of rehabilitation. Counsel conceded that sexual assault is a very prevalent offence in this division and in particular, that the sexual assault of a 10 year old girl child, in circumstances where liquor had a role to play in the commission of the offence, becomes reprehensibly offending to society.

11] Counsel suggested that the appropriate sentence to impose on the accused would be;

- (i) A fine; or
- (ii) A fine coupled with a suspended sentence; or
- (iii) A wholly suspended sentence.

He emphasized that the accused is not a candidate for a term of imprisonment, but a good candidate for rehabilitation, given that in the exercise of its discretion, the court could impose a suspended sentence which has rehabilitative effects, rather than a term of imprisonment, which could lend and subject the

accused to teachings of harden criminals in prison.

12] Responding to criticism from Mr Joubert, who appears for the state, that restorative justice would demand that the accused should have apologized openly to the complainant and her parents, by actually taking the stand in court, give evidence and make a solemn plea and an apology to them, Mr Hanise, submitted that the reason why the accused could not apologize, as a measure to show remorse to the complainant and her parents is because the bail conditions precluded him from any contact or communication with state witnesses.

13] As regards the issue of a clear demonstration of remorse to satisfy the demands of restorative justice, by actually giving evidence and apologizing, in an open court to the complainant and her parents, Counsel for the accused elected, understandably, given some considerations of the appeal process in our law, not to deal with that question. I will not make any ruling, comment or inference on that aspect of his case, save to record that aspect.

14] The version submitted by Barbara, that she, at one stage laid a charge of assault at Mthatha Police Station against the accused for assaulting his father, was denied by Counsel, Counsel submitted, on the contrary, that the correct version is that the accused's father assaulted the accused, and

at the time the accused was under the influence of liquor. Counsel conceded that the accused has a drinking problem (liquor addiction) and he does not know if the accused has stopped his drinking habit.

15] Mr Hanise referred the court to the following cases, to consider in determining the appropriate sentence in the matter.

- **S vs E 1967 (3) SA 500N, 503E – D**
- **S vs HARISON 1970 (2) SACR AD.**

That concluded the submissions made by Counsel on behalf of the accused in mitigation of sentence.

B] THE STATE SUBMISSIONS

16] Counsel for the State, Mr Joubert, called Barbara van Rooyen, the complainant's mother, to take a stand and give evidence in aggravation of sentence in the matter. She testified that after the sexual violation incident, a school teacher told her that S was not doing well at school, not paying attention, not concentrating and not doing her work. She then related to the teacher the whole sexual violation ordeal that S endured. The teacher assisted her to get a psychiatrist to consult, counsel and treat Shannon. S consulted with Dr Kruger, a psychiatrist in private practice, her treatment was based on the visible symptoms demonstrated by the

lack and /or failure to cope with her school work. Dr Kruger could not continue with the counseling or to prepare and compile a written report containing his findings for 2 reasons;

- (i) Dr Kruger relocated from Mthatha to Pretoria, where he is in private practice now;
- (ii) The medical fees for counseling, consultation, preparation and submission of a written report on the condition of Shannon, quoted to her was ± R 10 000,00;
- (iii) Barbara and N could not afford to raise such amount of money to pay Dr Kruger.

17] Barbara testified that the accused has not been employed for quite a long time. He lost employment with a company called MTN and has just secured a new job this year, 2011. She testified that N and her are in constant touch with the mother of the accused's children, Renne Myburgh. According to Renne Myburgh the accused does not visit nor support his children and does not know where and how they stay, survive or live. She stated that, with her husband, they attempted to secure a job for Renne with a family friend's business, but because of the state of the economy they did not succeed in getting her a job.

Barbara described the accused as someone who could be very nice and

can also be a very violent person.

- 18] Questioned by Counsel about her knowledge of the accused and her description of his character, she said she knows the accused very well and bases her conclusions on the past personal encounters between the accused, herself and N.

In an attempt to demonstrate the violent nature of the accused, she narrated an incident when the accused demanded money from his parents to buy alcohol and drugs, where he screamed, performed and shouted at his parents, demanding money to buy liquor and drugs. He made so persistent demands to his parents that they relented and gave him money to purchase alcohol and drugs.

- 19] When invited by Counsel to give her opinion on what sentence she would consider as appropriate for the accused, she suggested that a term of imprisonment would be appropriate. Barbara lamented that since the date of the commission of this offence in 2009, the accused has not apologized to her, her husband or the complainant, and that if he did, it would have made a great difference to them.

Barbara testified that after brief counseling by Dr Kruger, there was some improvement in the life and school work of Shannon, but after Dr Kruger

left for Pretoria, she was left with no one to assist her. She stated that S still endures some moments of relapse and, resultedly, she has approached a friend to assist her find another doctor she could engage to counsel and treat Shannon.

20] Mr Joubert submitted that crime statistics show that crime generally has sky rocketed out of control in South Africa because courts do not impose severe enough sentences to address the rampant spate of crime in the country. He submitted that;

- (i) A 1991 crime survey showed that in every 30 minutes a crime is committed in South Africa;
- (ii) In 2006, 150 women were raped every day.

21] Counsel urged the court to take into account the following factors;

- (i) That the accused is a first offender;
- (ii) Seriousness of the offence;
- (iii) Accused's complete lack of remorse;
- (iv) Abuse of a position of trust by the accused; and
- (v) Abuse of alcohol by the accused.

He submitted that in the Criminal Law by Snyman, 5th Edition, Page 48, Snyman deals with the **principle of legality in punishment** and argues that great

emphasis is placed on the exercise of the discretion vested in the courts in sentencing offenders.

22] Counsel submitted that the offence of sexual assault has become a common offence, is increasing at an alarming rate in South Africa, that increase calls for severe sentences to be brought back and imposed on offenders. He emphasized that public expectations, on the sentencing regime are dealt with in an article, titled, **PUBLIC EXPECTATION, 2000, SOUTH AFRICAN LAW JOURNAL**. The article demonstrate that the expectations of society are that severe sentences should be imposed, with the rampant increase of crime in society and that the escalation of crime is the direct result of failure by courts to exercise the discretion that vest in them of imposing sentences which are severe enough to stem the tide of rampant crime that ravages society in the country .

23] He submitted that the description of the accused as an arrogant man is correctly befits him in that, if he were remorseful, he would bow to the demands of the concept of restorative justice, by taking a witness stand, give evidence, plead and apologize openly to the complainant and her parents for the sexual violation of their daughter. He submitted that the accused has shown no remorse at all.

Counsel disputed a suggestion made by the defence, that it is a fabrication to suggest that S was ever consulted by Dr Kruger.

24] It was submitted that the consumption and / or the effects of alcohol consumption in the commission of the offence is not a mitigating factor. The conduct of the accused, in committing this offence on S was described by Counsel as reprehensible to society by virtue that the accused enjoyed a position of trust and familial power relative to S and he abused such trust and power.

Mr Joubert submitted that sexual assault is any act of a sexual nature which excludes penetration. Sexual penetration is penetration by any part of the body. He submitted that according to the evidence, the accused touched the complainant's vagina in a massage way and that conduct could easily have led to the actual penetration, which would constitute a crime of rape, a serious offence which would have called for the imposition of a sentence of imprisonment for life.

25] Counsel suggested that a term of imprisonment for 10 years, 3 years of which is suspended for 5 years, is an appropriate sentence in the circumstances of this case and referred the court to the following cases and authorities;

(i) Criminal Law – Synman 5th Edition at page 21;

(ii) S v L 1998 (1) SACR 63;

(iii) S vs Mc MILLAN 2003 (1) SACR;

(iv) S vs B 1994 (2) SACR;

(v) S vs D 1995 (1) SACR 98;

That concluded the submissions made on behalf of the state.

- 26] Almost all the submissions made by the accused at the sentencing stage of the trial were disputed by the state, through the oral evidence of Barbara van Rooyen. The written report by a psychiatrist, Dr Kruger, who consulted the complainant was not available to enable the court to assess and determine the psychological effects, if any, of this ordeal on S or its short or long term effect in future on Shannon.

Clearly without a medical report, which details the findings by a psychiatrist, the court would be unable, in determining the appropriate sentence, to take into account the effects, short or long term, of the sexual violation on Shannon. The court can only take into account only those effects of this ordeal on S which have been stated by Barbara in her testimony.

- 27] ***"It is trite that rape [sexual assault] is a very serious offence constituting, as it does, a humiliating, degrading and brutal invasion of the privacy, dignity and the person of the victim [S vs Chapman 1997(2) SACR 3 SCA], a cancer within the society [S vs Swartz and Another 1999 (2) SACR 380 C at 385 C] and an***

appalling and utterly outrageous crime which violates a women's body, which is sacrosanct [S vs Mcheche 2005 (2) SACR 386W at 395 H]

The seriousness of the present instances of rape [sexual assault] are compounded by the age of the victim, the relationship of the accused to the victim and the rape of the child in her own bedroom"

S vs M 2007 (2) SACR 60 W

- 28] **S vs M 2007 (2) SACR 60 W**, presents an accurate description of sexual assault as;

"The involvement of dependant, developmentally immature children in sexual activities, that they do not fully comprehend or to which they are unable to give informed consent, and that violates social taboos concerning family roles."

- 29] It has been explained that the sex offender tends to rely on befriending a child and gaining a hold over him / her, thus allowing the offender to control the victim. Grooming is a very difficult concept to define, but it is explained as an on-going process, aimed at the child accepting sexual activities from the offender. Grooming is a transient feature that is difficult to capture, and virtually impossible to decide when it begins and ends.

What is more certain is that grooming is neither new nor restricted to on – line behaviour. It is generally seen as a cycle of abuse, and can include for an example, befriending a potential victim to allow the child to acquiesce to sexual activity. The grooming aspect involves an aspect of deceptive trust created by the offender and a manipulation of the child by the adult.

S v M 2007 (2) SACR 60W

Barbara testified that while they sat at the kitchen, preparing lunch S sat on the accused's lap, the accused promised to buy S a memory card for her new cellular phone. Could this be considered as grooming?

Throughout the trial no evidence was presented or emerged, from which it could be concluded that the accused groomed the complainant to acquiesce to sexual activities with him.

- 30] The relationship between the accused and the complainant places the accused in such a position of power and trust over the complainant, which renders such sexual activity to be morally wrong, punishable within the realms of criminal law and socially reprehensible. It became notable throughout the trial that the complainant referred to the accused as "uncle Bradley", ***"an appellation that signifies, not merely a generational gap, but respect and deference to the authority of elders."***

31] The accused occupied a position of familial power and standing in relation to Shannon, his younger brother's step daughter. S was vulnerable to his seniority in age and familial standing, his affinity with her own mother, father, grandparents and his role as a *paterfamilias* in the home and family. The accused selfishly exploited, to the full, the position of power and trust, which he held over the complainant.

32] A particularly disturbing feature of this case has been the family dynamics attendant upon the sexual assault of the girl child and the prosecution of the accused. The child found herself painfully thrown at the centre of this bitter battle and an agonizing quarrel between the adults who are, not only related to her, but senior members of the only precious institution she cherishes, the family.

"It may be that rape / [sexual assault] of children is now viewed more seriously than it was in the pre – constitutional stage of our criminal legal process. It is now recognized that rape / [sexual assault] victims' fundamental rights to dignity, privacy, security of the person and freedom of abuse are all infringed. It may be argued that the Constitution provides some impetus towards greater recognition of the interests of the victim in the sentencing stage. South African Courts do reflect the views of the broader community, when stating that the courts must show

no mercy to those who seek to invade those rights, the communities at large expect the courts to punish rapists and sexual offenders of children severely."

33] "The sentence of this court should shout to the community at large

that rape / [sexual assault] is unacceptable. The courts in punishing such offenders, should ensure that the sentences adequately reflect the censure, which society should and does demand, as well as the retribution, it is entitled to exact, and the community is entitled to demand that those who performed such perverse acts be adequately punished, a clear message must be sent to society, both by parliament and the courts alike, that serious crimes will be punished severely."

- S vs M 2007 (2) SACR 60 W

34] What weighs heavily in favour of the accused, when the court considers the question of the appropriate sentence, is that he is a first offender, in particular, at the age of 35, has no previous conviction/s or pending cases against him.

Of great concern to the court, though, is that the accused is not remorseful and has shown no remorse, even to Shannon. Counsel

submitted that the accused has shown remorse, but defence Counsel contended that the accused has shown remorse. To decide the issue the court should investigate the intensity, longevity and foundation of the proclaimed remorse, to determine if it is sincere, and whether it is just regret at having been caught by Barbara, or whether it is contrition for what was done, and constitute part of an undertaking not to commit the offence again. The only yardstick by which the court could judge the genuineness or otherwise of the accused's proclaimed remorse, is only a submission made by Counsel. By itself, this is an insufficiently demonstrable manifestation of genuine remorse.

- 35] On the conspectus of all the evidence before court and the submissions made by Counsels, there does not appear to be any facts upon which the court could conclude that the accused experienced any regrets for what he did or that any, ***"feelings of self – reproach compelled him to take any action to expiate his guilt or avoid any further such acts of assault and violation."***

Accordingly, I cannot find that the accused is genuinely remorseful for committing the offence of sexual assault against Shannon.

- 36] Counsel for the accused submitted, as a mitigating factor, that no violence was used by the accused and the complainant suffered no injuries

because the accused merely placed his hand on her vagina and moved it in a massage way. It is difficult to comprehend how this could be relevant or mitigating in circumstances where no violence or threat of violence was needed or necessary from the accused to commit the offence of sexual assault on a 10 year old girl child. What further militate against this submission is precisely that, the legislature sought to criminalize that very same conduct of placing a hand on the vagina and moving it in a massage way and defined it as sexual assault.

37] In **S v G 2004 (2) SACR 296 W, BORCHERS J**, held;

“A physically immature child of 10 is no match for an adult man, and little violence was needed to achieve this purpose.”

I think, similar considerations apply in this case, where the victim of sexual assault is a 10 year old girl child, and the assailant, a mature man of 35, who is also armed with the additional power of familial and paternal standing.

38] The **SOUTH AFRICAN LAW COMMISSION REPORT ON A NEW SENTENCING FRAMEWORK PROJECT 82 (NOVEMBER 2000) AT PARAGRAPH 1.1 AND 1.2** states that the decisions of our courts on sentencing are announced to a critical public, who analyse them against a variety of expectations. They ask whether the sentences express such

public condemnation of crime adequately and protect the public against future crimes by the reform and incapacitation of offenders and other potential offenders. It also enquires whether the sentences are just in the sense that similar sentences are being imposed for offences that are of equal seriousness or heinousness.

In addition there is a growing expectation that sentences must be restorative in the sense of compensating the individuals who suffered as a result of crime and of repairing the social fabric that criminal conduct damages. All these concerns are inevitably prominent among the victims of crime, who have a special interest in the offenses that they themselves have suffered.

S vs M (CENTRE FOR CHILD LAW AS AMICUS CURIAE) 2008 (3) SA 232 C.

39] In **S vs MALGAS 2001 (2) SACR 469**, it was held that a mere placing of over emphasis on the nature of the crime at the expense of the personal circumstances of the offender was regarded as a misdirection, rendering a sentence susceptible to be set aside by the Court of Appeal.

40] By sentencing accused persons convicted of such serious offences severely, the courts of law will be performing their duty in deterring and attempting to eliminate the scourge of crimes committed against the

innocent, helpless and defenseless women in our society.

- 41] There are mitigating factors, that the accused is a first offender, at 35, has a clean record, is single, but has 2 children to support and maintain, is employed and earns a salary of R 3000,00 per month, out of which he maintains his old and pensioned parents and his 2 children.

Although Barbara testified that the accused has not been in employment for quite sometime, neither assist nor maintains his children or his parents, but, I intend to take into account these factors as mitigating factors in favour of the accused in this case, because Barbara, surely, may not know how the accused expends his salary or meets his monthly commitments, such facts would normally and properly emerge in the maintenance court inquiry.

These are mitigating factors, but when viewed and weighed against the gravity and seriousness of sexual violation, on a 10 year old girl child, with its chilling effects on her, whether on long or short term basis, the force of personal circumstances and other mitigating factors in favour of the accused pale into insignificance.

In my view, they are, by far, outweighed by the societal considerations and the demands of the sentencing regime.

- 42] In **S vs HOWELLS 1999(1) SACR 675 C, 1999 (2) ALLSA 233, VAN HEERDEN J**, held that, on the facts of that case, although there was a

real risk, that, should the appellant be imprisoned, her children would have to be taken into care, the nature and magnitude of the appellants' offence and the interest of society outweighed the interest of the appellant and her children.

VAN HEERDEN J, in this case, stated that this is obviously highly regrettable and makes the court reluctant to condemn the appellant to imprisonment, but punishment in the way of imprisonment are prospects which, a person embarking on this sort of crime, must always foresee.

- 43] The preamble to the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 32 of 2007 [an Act under you have been convicted], states;
- i) The commission of sexual offences in the Republic is of grave concern, as it has a particularly disadvantageous impact on vulnerable persons, the society as a whole and the country;
 - (ii) Women and children, being particularly vulnerable, are more likely to become victims of sexual offences, including participating in adult prostitution and sexual exploitation of children;
 - iii) The prevalence of the commission of sexual offences in our society is primarily a social phenomena, which is reflective of deep – seated, systemic dysfunctionality in our society, and that legal mechanisms to address this social phenomenon are limited and are reactive in nature,

but, nonetheless, necessary;

- iv) Several international legal instruments, including the **UNITED NATIONS CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN, 1979** and the **UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD, 1989**, place obligations on the Republic towards the combating and, ultimately, eradicating the abuse and violence against women and children;
- v) The Constitution of the Republic places the rights of children and other vulnerable persons to have their best interest considered as a matter of paramount importance.

44] Accused you sexually assaulted your younger brother's step daughter, Shannon. S now suffers from certain relapses in her school work and needs to secure psychiatric treatment and her parents cannot afford to meet those medical bills. You showed no remorse for such conduct, in particular, inconvenienced, financially and otherwise, her parents, caused turmoil, disharmony and disunity among members of your own family.

I can only hope that S will recover because children, by their own nature, are endowed with the capacity sometimes to recover from such or similar painful ordeals.

45] The sentence I intend to impose on you, I believe acknowledges the deterrent, retributive, rehabilitative components of punishment, it also captures and acknowledges the outrage and revulsion of society and the community demands in a balanced manner.

SENTENCE

46] Accused you are sentenced to undergo;

- 8 years imprisonment;
- ½ of which is suspended for a period of 5 years;
- On condition that you are not convicted of
 - Rape;
 - Compelled rape;
 - Sexual assault;
 - Compelled sexual assault; and
 - Compelled self sexual assault,

committed during the period of suspension.

It is ordered that this sentence is ante – dated to and shall commence as from 5 October 2011, the date on which the accused was first remanded in custody.

MM MTHEMBU

ACTING JUDGE OF THE HIGH COURT, MTHATHA

HEARD ON

5 OCTOBER 2011

DELIVERED ON

12 OCTOBER 2011

COUNSEL FOR THE STATE

ADV/S NEL & JOUBERT

**INSTRUCTED BY THE DIRECTOR OF
PUBLIC PROSECUTIONS - MTHATHA**

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