



IN THE HIGH COURT OF SOUTH AFRICA

(NORTH GAUTENG HIGH COURT. PRETORIA)

CASE NO: A1441/2005

DATE: 2009-03-30

In the matter between

LORDWICK MACHABA

Applicant

And

THE STATE

Respondent

J U D G M E N T (LEAVE TO APPEAL)

PRELLER. J: We have read the application for leave to appeal. There is no prospect of success on the merits and Mr de Vos quite fairly conceded that. As far as the sentence is concerned there would be a strong case to be made out for a sentence of correctional supervision, if only the personal circumstances of the appellant were to be taken into account. Unfortunately this is the type of offence in which both the public and the administration of justice have a vital interest.

As was pointed out by the Magistrate and also in our judgment on appeal, this type of offence threatens the very core of our criminal justice system. I do not think that there is any prospect that another court might come to a different conclusion as far as sentence is concerned, and if anything, I am of the view that if the Magistrate erred in respect of the sentence, she erred on the side of the leniency. In my view there is no prospect of success on appeal and the application should be dismissed.

MOTHLE. A.J: I agree.

PRELLER. J: It is so ordered.

COURT ADJOURNS