



**IN THE HIGH COURT OF SOUTH AFRICA,
FREE STATE DIVISION, BLOEMFONTEIN**

Not Reportable

Case no: 3751/2022

In the matter between:

MOSEBETSI RICHERD MOFOKENG

APPLICANT

and

THE REGIONAL COURT MAGISTRATE C NEKOSI N.O.

FIRST RESPONDENT

DIRECTOR OF PUBLIC PROSECUTIONS

SECOND RESPONDENT

Neutral citation: *Mofokeng v The Regional Court Magistrate C Nekosi N.O. and Another* (3751/2022) [2026] ZAFSHC 56 (13 February 2026)

Coram: MOLITSOANE J et MAHLANGU AJ

Delivered: 13 February 2026

Summary: Leave to appeal – whether there are prospects of success on appeal or there are other compelling reasons to grant leave to appeal – principles restated.

ORDER

- 1 The application for leave to appeal is dismissed.
 - 2 There is no order as to costs.
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JUDGMENT

Molitsokane J (Mahlangu AJ concurring/dissenting?????)

[1] This is an application for leave to appeal to the Supreme Court of Appeal, the judgment and order granted by this Court dismissing a review application of the proceedings pending in the lower court.

[2] The applicant submits that we erred in not finding that the presiding magistrate was biased against him. We dealt fully with this issue. The applicant has failed to discharge the threshold of bias on the part of the presiding magistrate. In this application, the applicant only rehashes the arguments he raised in the main application, which we rejected.

[3] The application further seeks to challenge the factual and credibility findings made by the trial court. It is trite that an appeal court will not interfere with credibility findings of the trial court unless the court finds the same were clearly wrong. What is clear to us is that the applicant conflates the appeal procedure with the review procedure. He seeks to appeal the findings of the trial court under the guise of a review. The applicant has not demonstrated such. It is contended that it was never the evidence of the applicant that he had a formal graduation certificate. What was in issue was that the applicant misrepresented to his erstwhile employer that he had an LLB degree. In the heads of argument in the application for leave to appeal, it is submitted that:

'A perusal of the record confirms that the Applicant consistently testified to possessing a "Letter of Completion" which is distinct from a formal graduation certificate.

[5] This submission fails to deal with what the "Letter of Completion" was meant to prove, what is it that the applicant completed. The only inference to be drawn as to what the letter evinces can only be understood in the context of all the evidence, which is, that he completed an LLB Degree.

[6] A serious allegations is made that the Honourable Magistrate had irregularly made unauthorised additions and changes to the wording of the judgment and / or official record of proceedings, this allegation was never pursued during the hearing before us and accordingly, we did not deal with it in our judgment.

[7] In our view, the test for granting leave to appeal is settled. In our opinion, the appeal against our order would not have a reasonable prospect of success on appeal or that there are some compelling reasons why we should grant leave to appeal.

[8] We accordingly order as follows:

- 1 The application for leave to appeal is dismissed.
- 2 There is no order as to costs.



P E MOLITSOANE
JUDGE OF THE HIGH COURT

I concur.



E M MAHLANGU
ACTING JUDGE OF THE HIGH COURT

Appearances

For the applicants:

T T Hlapolosa

Instructed by:

T T Hlapolosa Inc,

Johannesburg

c/o Seobe Attorneys,

Bloemfontein

For the respondent:

E B Ontong

Instructed by:

Director of Public Prosecutions,

Bloemfontein.