




**IN THE HIGH COURT OF SOUTH AFRICA,
GAUTENG DIVISION, JOHANNESBURG**

APPEAL NO: A2025-034700

(1)	REPORTABLE: YES/NO
(2)	OF INTEREST TO OTHER JUDGES: YES/NO
21/05/2026	
DATE	SIGNATURE

In the matter between:

**MANYANGE, BENJAMIN
MTHEMBI, KATAKANI**

**FIRST APPELLANT
SECOND APPELLANT**

and

THE STATE

RESPONDENT

JUDGMENT

KARAM AJ:

INTRODUCTION:

- [1] The appellants were convicted in the Johannesburg Regional Court on a charge of contravening Section 4 (1)(a)(ii)(bb) read with Sections 1, 2, 4(2), 24, 25, 26(1)(a) of the Prevention and Combating of Corrupt Activities Act 12 of 2004 – corruption.
- [2] The appellants were charged and convicted in terms of the provisions of Section 51(2) of the Criminal Law Amendment Act 105 of 1997 (“the minimum sentence provisions”).
- [3] The appellants were each sentenced to 15 years imprisonment.
- [4] Leave to appeal was sought in respect of conviction and sentence. Same was refused by the court a quo.
- [5] The appellants subsequently petitioned this court for leave to appeal the conviction and sentence. Leave to appeal was granted only in respect of sentence.

ISSUES ON APPEAL

- [6] The issues to be determined are whether the trial court erred in imposing a sentence which is startlingly inappropriate in the circumstances; whether the trial erred in failing to find substantial and compelling circumstances, warranting a departure from the imposition of the prescribed minimum sentence of 15 years imprisonment; and whether the sentence imposed is disproportionate in the circumstances.

LAW AND ANALYSIS

[7] It is trite that punishment is pre-eminently a matter for the discretion of the trial court. A court of appeal can only interfere with the sentence imposed where that discretion has not been judicially, properly or reasonably exercised, resulting in irregularity or misdirection, or where the sentence imposed is shockingly inappropriate in that it is substantially different from that sentence which the appeal court would have imposed.¹

AD SENTENCE

[8] Section 51(2) of the minimum sentence provisions provides for the imposition of a minimum sentence of 15 years imprisonment.

[9] In *S v Malgas* (supra) it was stated that the minimum sentence legislation aimed at ensuring a severe standardized and consistent response from the courts and is to be applied unless there are and can be seen to be truly convincing reason for a different response. Further, that the specified sentences are not to be departed from lightly or for flimsy reasons which cannot withstand scrutiny. This has been reiterated by the superior courts on numerous occasions.

[10] The gravity of corruption by police officers cannot be overemphasised. It threatens to very fabric of our society and our Constitution and offends against the rule of law.²

¹ *S v Pieters* 1987 (3) SA 717 (A); *S v Malgas* 2001 (1) SACR 469 (SCA); *DPP v Mngoma* 2010 (1) SACR 427 (SCA); *S v Le Roux & Others* 2010 (2) SACR 11 (SCA); *S v Grobler* 2015 (2) SACR 210 (SCA)

² *S v Shaik & others* 2007(1) SACR 247 (SCA)

[11] Further aggravating factors include:

[11.1] the fact that the complainant was taken to his residence by the appellants and that several of his items were removed therefrom by them, including his passport, identity document, employment card, matric certificate, as well as his partner's passport. Only his driver's licence was returned to him. He further believes that the appellants took his iPad;

[11.2] the fact that whilst the monies taken from the complainant was the sum of R1000,00, the appellants had demanded from him the sum of at least R5000,00 and his inability to pay same resulted in the items aforesaid not being returned to him;

[11.3] the fact that the appellants were members of a specialised unit investigating serious crimes;

[11.4] the lack of any remorse whatsoever, notwithstanding that the appellants were literally caught red handed.

[12] I am of the view that:

[12.1] the court a quo correctly found that there is nothing substantial and compelling in the appellants' personal circumstances;

[12.2] the court a quo properly considered all the mitigating factors, and correctly found that same, neither individually nor cumulatively considered, constitute substantial and compelling factors;

