

135/95

Case number 129/95

IN THE SUPREME COURT OF SOUTH AFRICA

(APPELLATE DIVISION)

In the matter between:

PRAGASEN PILLAY

Appellant

and

THE STATE

Respondent

CORAM

: **HEFER, STEYN JJA et**

VAN COLLER AJA

DATE OF HEARING

: **20 NOVEMBER 1995**

REASONS HANDED IN

: **22 NOVEMBER 1995**

J U D G M E N T

VAN COLLER AJA/.....

VAN COLLER AJA :

The appellant was convicted of rape in the Natal regional court, sitting at Durban. He was sentenced to eight years' imprisonment. His appeal to the Natal Provincial Division was successful to the extent that the conviction was altered to one of attempted rape and the sentence reduced to four years' imprisonment. Leave was granted to the appellant to appeal to this Court against the conviction.

I do not propose to set out the evidence which was adduced before the trial court. It has been dealt with by the regional magistrate in his judgment, and also by the court *a quo*.

I have considered the evidence, the judgment of the trial court, that of the court *a quo* and the arguments on behalf of the appellant and the respondent. I agree with the conclusion to which the court *a quo* came namely that the appellant was guilty of attempted rape. There is in my

judgment no ground upon which this Court could interfere with the judgment of the court *a quo*, and the appeal can therefore not succeed.

I would dismiss the appeal.

A.P. VAN COLLER

ACTING JUDGE OF APPEAL

HEFER JA] CONCUR

STEYN JA]

HEFER JA : The appeal is dismissed.

/al