



## JUTA'S ADVANCE NOTIFICATION SERVICE

JULY 2012

**Dear South African Law Reports and Criminal Law Reports subscriber**

Herewith the cases of interest in the July reports. Also included below are the table of cases and flynotes.

### JUDGEMENTS OF INTEREST IN THE JULY EDITIONS OF THE SALR AND THE SACR

#### **SOUTH AFRICAN LAW REPORTS**

##### **Land restitution woes for seller**

A land claims matter came before the Supreme Court of Appeal, arising out of a purchase of land by the state for purposes of restitution. It was an uncontested allegation that the state usually delayed payment until ordered to do so by court. Such conduct was to be condemned, and the seller was entitled to interest a *tempore morae* in respect of the delay. *Mokala Beleggings and Another v Minister of Rural Development and Land Reform and Others* 2012 (4) SA 22 (SCA)

##### **Was an unconditional offer to settle an admission of liability?**

In a claim for damages arising out of a dog bite an unconditional offer was made to settle the claim. This offer was rejected and the matter proceeding to trial. An issue was whether such offer amounted to a binding acknowledgment of liability. It was found that the rejected offer did not amount to an acknowledgment of liability, nor did it fix the minimum liability. Rule 34 offers and the cost implications discussed. *Visser v Visser* 2012 (4) SA 74 (KZD)

##### **Reasons for refusing you credit**

If you apply to a credit provider for credit and your application is refused, do you have a right to be supplied with the reasons for the refusal? And how long can the credit provider take to provide you with the reasons? An inquiring consumer approaches the court and the credit provider is ordered to pay the costs of the application. *Nkume v FirstRand Bank Ltd t/a First National Bank* 2012 (4) SA 121 (ECM)

#### **SOUTH AFRICAN CRIMINAL LAW REPORTS**

##### **Slaying of grandmother believed to be witch**

Two cousins believed that their grandmother was a witch and set out to confront her about her bewitching of family members. The grandmother died from a severe beating. In sentencing the accused, the court took into account that the accused were labouring under a delusion which, though not altering their guilt, did provide an extenuating circumstance. *S v Latha and Another* 2012 (2) SACR 30 (ECG)

##### **Driving accident results in conviction of murder**

The accused stole a car and was fleeing the police who were in hot pursuit. He lost control of the car and left three children dead on the sidewalk. The court found that he had reconciled himself to the possibility of their deaths. He was convicted of murder. *S v Qeqe* 2012 (2) SACR 41 (ECG)

### **No statutory offence without statutory penalty?**

The case of *Director of Public Prosecutions, Western Cape v Prins* 2012 (2) SACR 67 (WCC) raised the interesting issue of whether the court's discretion could be used in sentencing where no statutory penalties were provided for certain statutory offences. The matter recently went to the Supreme Court of Appeal, which decision will be reported in the August edition. The case also raises discussion over the maxims *nulla poena sine lege* and *nullum crimen sine lege*. See also *S v Boo* 2012 (2) SACR 52 (FB) and *S v Mchunu* 2012 (2) SACR 56 (KZP)

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Kind Regards

**The Juta Law Reports Team**

## **SOUTH AFRICAN LAW REPORTS**

**JULY 2012**

### **TABLE OF CASES**

- *Butters v Mncora* 2012 (4) SA 1 (SCA)
- *FirstRand Bank Ltd v Adams and Another* 2012 (4) SA 14 (WCC)
- *Mokala Beleggings and Another v Minister of Rural Development and Land Reform and Others* 2012 (4) SA 22 (SCA)
- *Emadyl Industries CC t/a Raydon Industries (Pty) Ltd v Formex Engineering* 2012 (4) SA 29 (ECP)
- *National Credit Regulator v Standard Bank of South Africa Ltd* 2012 (4) SA 47 (GSJ)
- *Metcash Trading Ltd v Hickman* 2012 (4) SA 53 (GSJ)
- *Premier, Limpopo Province v Speaker of the Limpopo Provincial Legislature and Others* 2012 (4) SA 58 (CC)
- *Visser v Visser* 2012 (4) SA 74 (KZD)
- *Thabani Zulu & Co (Pty) Ltd v Minister of Water Affairs and Another* 2012 (4) SA 91 (KZD)
- *In re Heydenrych Testamentary Trust and Others* 2012 (4) SA 103 (WCC)
- *Machingawuta and Others v Mogale Alloys (Pty) Ltd and Others* 2012 (4) SA 113 (GSJ)
- *Nkume v FirstRand Bank Ltd t/a First National Bank* 2012 (4) SA 121 (ECM)
- *Olgar v Minister of Safety and Security and Another* 2012 (4) SA 127 (ECG)
- *KG v CB and Others* 2012 (4) SA 136 (SCA)
- *EH v SH* 2012 (4) SA 164 (SCA)
- *Body Corporate Croftdene Mall v Ethekekwini Municipality* 2012 (4) SA 169 (SCA)
- *Maccsand (Pty) Ltd v City of Cape Town and Others* 2012 (4) SA 181 (CC)
- *Cilliers NO and Others v Duin & See (Pty) Ltd* 2012 (4) SA 203 (WCC)
- *Cape Town, City of v Strümpher* 2012 (4) SA 207 (SCA)
- *Fisher v Body Corporate Misty Bay* 2012 (4) SA 215 (GNP)
- *Swart and Others v Master of the High Court and Others* 2012 (4) SA 219 (GNP)
- *Ultrapolymers (Pty) Ltd v Maredi NO and Another* 2012 (4) SA 232 (GSJ)
- *Adcock Ingram Intellectual Property (Pty) Ltd and Another v Cipla Medpro (Pty) Ltd and Another* 2012 (4) SA 238 (SCA)
- *Securiforce CC v Ruiters* 2012 (4) SA 252 (NCK)
- *FirstRand Bank Ltd v Imperial Crown Trading 143 (Pty) Ltd* 2012 (4) SA 266 (KZD)
- *Law Society of the Cape of Good Hope v Nel* 2012 (4) SA 274 (SCA)

- Gaffoor and Another NNO v Vangates Investments (Pty) Ltd and Others 2012 (4) SA 281 (SCA)
- Banglar Mookh, MV 2012 (4) SA 300 (SCA)
- Owners of MV Banglar Mookh v Transnet Ltd: MV Banglar Mookh 2012 (4) SA 300 (SCA)

## FLYNOTES

### **BUTTERS v MNCORA (SCA)**

BRAND JA, HEHER JA, CACHALIA JA, MHLANTLA JA and TSHIQI JA  
2012 MARCH 8, 28  
[2012] ZASCA 29

**Partnership**—Universal partnership—Universorum bonorum (of all property)—Characteristics—(a) May extend beyond commercial undertakings—If so extending, contributions of both parties need not be confined to profit making entity—(b) May come into existence by tacit agreement—(c) Same requirements as for partnerships in general—(d) Test for tacit universal partnership being whether more probable than not that tacit agreement reached.

### **FIRSTRAND BANK LTD v ADAMS AND ANOTHER (WCC)**

DAVIS J  
2011 AUGUST 15, SEPTEMBER 23

**Credit agreement**—Consumer credit agreement—Debt review—Resumption —Discretion of court—Court may, irrespective of validity of termination, adjourn summary judgment application and afford consumer opportunity to submit proposal for resumption of debt review—Balance to be struck between interests of consumer and credit provider—Consumer's proposal cannot be based on reduction of contracted interest rate—National Credit Act 34 of 2005, s 86(11).

### **MOKALA BELEGGINGS AND ANOTHER v MINISTER OF RURAL DEVELOPMENT AND LAND REFORM AND OTHERS (SCA)**

MPATI P, NAVSA JA, SNYDERS JA, MAJIEDT JA and WALLIS JA  
2012 FEBRUARY 27; MARCH 23  
[2012] ZASCA 21

**Land**—Land reform—Restitution—Purchase of land by state for restitution—State deliberately delaying transfer and payment of purchase price—Uncontested allegation that state usually delaying payment until ordered to do so by court—Such conduct condemned—Seller entitled to interest a *tempore morae* in respect of delay.

**Interest**—A *tempore morae*—Purchaser of land (state) deliberately delaying transfer of property and payment of purchase price—Properly interpreted, contract not fixing specific time for transfer—However, seller having placed state *in mora ex persona* by written notices of demand—Seller entitled to *mora* interest on purchase price to compensate it for damages suffered in consequence of delay in payment of purchase price.

### **EMADYL INDUSTRIES CC t/a RAYDON INDUSTRIES (PTY) LTD v FORMEX ENGINEERING (ECP)**

EKSTEEN J  
2011 MARCH 16; JUNE 6–17; OCTOBER 31; DECEMBER 20

**Contract**—Breach—Remedies—Damages—Calculation—Whether plaintiff may elect to claim lost expenditure (or negative interesse) instead of lost profits (positive interesse)—Plaintiff claiming not only contract price of items produced but also expenditure incurred on raw materials acquired in anticipation of future production under repudiated contract—Open to plaintiff to formulate claim in such manner, subject to rule that amount recoverable may not exceed positive interesse.

### **NATIONAL CREDIT REGULATOR v STANDARD BANK OF SOUTH AFRICA LTD (GSJ)**

CANE AJ  
2011 OCTOBER 3, 25

**Credit agreement**—Consumer credit agreement—Applicable legislation—Usury Act and National Credit Act—Charging of administration fees in relation to housing loan agreements concluded in terms of Usury Act prior to its repeal by NCA—Stipulation in schedule to Usury Act, of maximum administration fees chargeable, not surviving repeal by NCA—However, right to fix administration fees in terms of such 'pre-existing' housing loan agreements having to be exercised *arbitrio bono viri*—Usury Act 73 of 1968, s 5(1)(k) read with para 3(b)(i) of schedule thereto.

**METCASH TRADING LTD v HICKMAN (GSJ)**

COETZEE AJ

2011 SEPTEMBER 9; 2012 FEBRUARY 12

**Practice**—Judgment and orders—Application for revival of superannuated judgment—Where summary judgment entered against two defendants but revival sought only against respondent—Judgment may be revived without citation of judgment debtors against whom judgment creditor not seeking leave to execute—Uniform Rules, rule 66(1).

**PREMIER, LIMPOPO PROVINCE v SPEAKER OF THE LIMPOPO PROVINCIAL LEGISLATURE AND OTHERS (CC)**

MOGOENG CJ, MOSENEKE DCJ, CAMERON J, FRONEMAN J, JAFTA J, KHAMPEPE J, NKABINDE J, SKWEIYA J, VAN DER WESTHUIZEN J and YACOOB J

2011 NOVEMBER 8; 2012 MARCH 22

[2012] ZACC 3

**Constitutional law**—Legislation—Enactment—Provincial legislature—Ambit of legislative authority of provincial legislature—Constitutionality of financial management legislation enacted by five provinces—Provincial legislatures lacking authority to enact legislation dealing with own financial management—Legislation unconstitutional—Declaration of invalidity suspended for 18 months.

**VISSER v VISSER (KZD)**

GORVEN J

2012 MARCH 12, 13, 29

**Damages**—Bodily injuries—Disfigurement and psychiatric injury—Two-year old child bitten in face by dog—Disfigurement relatively slight—No evidence of serious psychiatric consequences—Having suffered confusion and pain during incident and following weeks—R70 000 general damages awarded.

**Practice**—Offer of settlement—Unconditional offer to settle claim for damages—Offer rejected and matter proceeding to trial—Whether offer amounting to binding acknowledgment of liability—Answer in negative—Rejected offer amounting neither to acknowledgment of liability nor fixing minimum liability—Uniform Rules of Court, rule 34.

**THABANI ZULU & CO (PTY) LTD v MINISTER OF WATER AFFAIRS AND ANOTHER (KZD)**

RALL AJ

2011 MAY 17; JUNE 22

**State**—Actions by and against—Actions against—Notice—When required—Not required for institution of action for recovery of fees due under contract—Institution of Legal Proceedings against Certain Organs of State Act 40 of 2002, s 1(1) sv 'debt' and s 3.

**IN RE HEYDENRYCH TESTAMENTARY TRUST AND OTHERS (WCC)**

GOLIATH J

2011 MARCH 14; DECEMBER 6

**Trust and trustee**—Trust—Trust instrument—Variation—Testamentary trust—Power of court to vary trust instrument—Testamentary trusts allocating scholarships on discriminatory grounds of race, descent and gender—Testator of will predating democratic constitutional

order would not have foreseen that such discriminatory conditions would be rendered unconstitutional and unlawful, or that charitable purpose of trust would be hampered thereby—Court accordingly empowered to vary trusts—Trust Property Control Act 57 of 1988, s 13.

**MACHINGAWUTA AND OTHERS v MOGALE ALLOYS (PTY) LTD AND OTHERS (GSJ)**

NOTSHE AJ

2011 SEPTEMBER 9, 23

**Discovery and inspection**—Production of documents—Notice to produce documents—Failure to comply—Remedy—Documents may not be used, save with leave of court—Not only remedy—Application for order compelling production also possible—Uniform Rules of Court, rules 30A and 35(12).

**Discovery and inspection**—Production of documents—Notice to produce documents—Ambit—Once reference made to document in pleadings or affidavits, it must be produced—Purpose of production of documents referred to is to enable party requesting production to consider his position—Relevance of document not requirement for its production—Privileged documents not excluded from ambit of rule—Uniform Rules of Court, rule 35(12).

**NKUME v FIRSTRAND BANK LTD t/a FIRST NATIONAL BANK (ECM)**

NHLANGULELA J

2012 MARCH 6, 15

**Credit agreement**—Consumer credit agreement—Rights of consumer—Right to be furnished with reasons for refusal of credit—Credit provider to furnish reasons within reasonable time—Credit provider initially refusing to give reasons, but relenting after application for mandamus by consumer—Credit provider ordered to pay costs of application.

**OLGAR v MINISTER OF SAFETY AND SECURITY AND ANOTHER (ECG)**

PICKERING J

2012 FEBRUARY 20

**Practice**—Irregular proceedings—Notice of opposition to taxation filed out of time—Such notice not to be ignored, but to be set aside as irregular proceeding—Uniform Rules of Court, rules 30(1) and 70(3B) (b).

**Costs**—Taxation—Review—Notice of opposition to taxation filed out of time—Taxing master cannot condone such late filing—If party opposing taxation not objecting when before taxing master, review of taxation procedure cannot thereafter be invoked—Uniform Rules of Court, rules 48 and 70(3B) (b).

**KG v CB AND OTHERS (SCA)**

MTHIYANE DP, VAN HEERDEN JA, LEACH JA, BORUCHOWITZ AJA and PLASKET AJA

2012 FEBRUARY 22; MARCH 22

[2012] ZASCA 17

**Minor**—Abduction—International abduction—Application for return of unlawfully removed or retained child—Rights of custody (art 3)—Such including right to determine child's place of residence (art 5)—This encompassing right under domestic law to prevent removal of child or to withhold consent to its removal—Hague Convention on the Civil Aspects of International Child Abduction 1980, arts 3 and 5.

**Minor**—Abduction—International abduction—Application for return of unlawfully removed or retained child—Grave risk of harm—Grave risk return would expose child to physical or psychological harm or otherwise place child in intolerable situation (art 13(1)(b))—Correct approach to art 13(1)(b)—(1) Article need not be narrowly construed; (2) burden of proof on person opposing return, on balance of probabilities; (3) risk need reach such seriousness as to be 'grave', and relation of risk and harm in deciding whether 'grave'; (4) 'intolerable situation' one that particular child in particular circumstances should not be expected to tolerate—Hague Convention on the Civil Aspects of International Child Abduction 1980, art 13(1)(b).

**EH v SH (SCA)**

MTHIYANE DP, CLOETE JA, MHLANTLA JA, LEACH JA and BORUCHOWITZ AJA  
2012 MARCH 6, 22  
[2012] ZASCA 19

**Husband and wife**—Divorce—Maintenance—Spouse—Wife living with and being supported by other man, yet claiming maintenance from husband—Public policy no longer bar to claim.

**BODY CORPORATE CROFTDENE MALL v ETHEKWINI MUNICIPALITY (SCA)**

CLOETE JA, HEHER JA, MAYA JA, CACHALIA JA and PLASKET AJA  
2011 SEPTEMBER 8; OCTOBER 10  
[2011] ZASCA 188

**Local authority**—Rates—Credit control and debt collection measures—Dispute concerning specific amount—Where ratepayer properly disputing item, municipality cannot take measures with regard to it, but may take measures in regard to items not in dispute—Local Government: Municipal Systems Act 32 of 2000, s 102(2).

**MACCSAND (PTY) LTD v CITY OF CAPE TOWN AND OTHERS (CC)**

MOGOENG CJ, YACOOB ADCJ, CAMERON J, FRONEMAN J, JAFTA J, KHAMPEPE J, MAYA AJ, NKABINDE J, SKWEYIYA J, VAN DER WESTHUIZEN J and ZONDO AJ  
2012 FEBRUARY 16; APRIL 12  
[2012] ZACC 7

**Mines and minerals**—Mining right—Nature and ambit—Limitation—Town planning—Town planning and zoning schemes—Exercise of mining right subject to compliance with LUPO—Land Use Planning Ordinance 15 of 1985 (Cape); Mineral and Petroleum Resources Development Act 28 of 2002.

**CILLIERS NO AND OTHERS v DUIN & SEE (PTY) LTD (WCC)**

BINNS-WARD J  
2012 FEBRUARY 21, 28

**Company**—Winding-up—Grounds—Just and equitable to do so—May be used where deadlock in sense of breakdown of trust between members of company—Companies Act 71 of 2008, s 81(1)(d)(iii).

**CITY OF CAPE TOWN v STRÜMPHER (SCA)**

MTHIYANE DP, VAN HEERDEN JA, BOSIELO JA, MAJIEDT JA and NDITA AJA  
2012 MARCH 12, 30  
[2012] ZASCA 54

**Spoliation**—Mandament van spolie—Disconnection of municipal water supply—Mandament available, as rights of water user against municipality not purely contractual.

**FISHER v BODY CORPORATE MISTY BAY (GNP)**

LEGODI J  
2011 APRIL 1, 12

**Spoliation**—Mandament van spolie—When available—Where disk allowing access to housing complex deactivated.

**SWART AND OTHERS v MASTER OF THE HIGH COURT AND OTHERS (GNP)**

GOODEY AJ  
2010 SEPTEMBER 2; NOVEMBER 23

**Company**—Winding-up—Enquiry into affairs of company—Appointment of commissioner—Master may not appoint commissioner in terms of s 417, but only in terms of s 418—Companies Act 61 of 1973, ss 417 and 418.

**ULTRAPOLYMERS (PTY) LTD v MAREDI NO AND ANOTHER (GSJ)**

VAN OOSTEN J  
2012 MARCH 9, 16

**Insolvency**—Insolvent—Voidable dispositions—Interim proceedings—Creditor may, where swift action required, proceed in own name in order to protect right conferred by section—Insolvency Act 24 of 1936, s 32(1).

**ADCOCK INGRAM INTELLECTUAL PROPERTY (PTY) LTD AND ANOTHER v CIPLA MEDPRO (PTY) LTD AND ANOTHER (SCA)**

FARLAM JA, NUGENT JA, MALAN JA, WALLIS JA and PETSE AJA  
2012 MARCH 6, 29  
[2012] ZASCA 39

**Intellectual property**—Trademark—Expungement—Mark so similar to existing mark that confusion or deception likely—Test—Prescription medication—Generic alternatives—Court to consider not only specialised pharmaceutical market but also patient—New mark ZEMAX so similar to existing mark ZETOMAX that patient could be deceived or confused—ZEMAX mark expunged from register—Trade Marks Act 194 of 1993, s 10(14).

**Intellectual property**—Trademark—Expungement—Mark so similar to existing mark that confusion or deception likely—Test—Court to consider likelihood of confusion of notional consumer of entire class of goods in respect of which marks registered—Trade Marks Act 194 of 1993, s 10(14).

**Medicine**—Medicines—Prescription medication—Trademark—Generic alternatives—Application for expungement of mark from register on ground that mark so similar to existing mark that confusion or deception likely—Test—Not only specialised pharmaceutical market but also patient to be considered—New mark ZEMAX so similar to existing mark ZETOMAX that patient (as opposed to practitioner) could be deceived or confused—ZEMAX expunged from register—Trade Marks Act 194 of 1993, s 10(14).

**SECURIFORCE CC v RUITERS (NCK)**

KGOMO JP and PAKATI AJ  
2011 AUGUST 15; DECEMBER 2

**Magistrates' court**—Civil proceedings—Practice—Judgments and orders—Default judgment—Rescission—Where defendant barred from pleading pursuant to notice of bar—Rescission of judgment effective notwithstanding bar, and may thus be granted—Magistrates' Courts Rules, rule 49(1).

**Magistrates' court**—Civil proceedings—Practice—Judgment—Request for reasons for judgment—Such in fact request for court's judgment—Losing party requesting reasons for judgment entitled to proper judgment from court as contemplated in applicable rule—Magistrates' Courts Rules, rule 51.

**FIRSTRAND BANK LTD v IMPERIAL CROWN TRADING 143 (PTY) LTD (KZD)**

SWAIN J  
2011 NOVEMBER 25; DECEMBER 9

**Company**—Business rescue—Where liquidation proceedings already initiated—Once liquidation proceedings initiated, board precluded from launching business rescue proceedings—Affected persons may, however, still do so—Meaning of 'liquidation proceedings . . . initiated'—Referring to 'commencement' of winding-up (voluntarily or by order of court) as intended in Companies Act 61 of 1973—Companies Act 71 of 2008, s 129(2)(a), s 131(1) and s 131(6).

**LAW SOCIETY OF THE CAPE OF GOOD HOPE v NEL (SCA)**

NAVSA JA, HEHER JA, SHONGWE JA, MAJIEDT JA and WALLIS JA  
2011 NOVEMBER 2, 23  
[2011] ZASCA 200

**Attorney**—Misconduct—Disciplinary proceedings—Unprofessional conduct—Formulation of charge-sheet crucial—Attorney charged with bringing profession into disrepute by failing to advise accused client of right to remain silent—Clear from evidence that client never intended to avail himself of such right—Evidence not sustaining charge as formulated.

**GAFFOOR AND ANOTHER NNO v VANGATES INVESTMENTS (PTY) LTD AND OTHERS (SCA)**

MTHIYANE DP, VAN HEERDEN JA, LEACH JA, TSHIQI JA and NDITA AJA  
2012 MARCH 9, 30  
[2012] ZASCA 52

**Company**—Shares and shareholders—Shares—Register of members—Rectification—Right to apply for rectification not subject to prescription—Companies Act 61 of 1973, s 115.

**Company**—Shares and shareholders—Shares—Register of members—Rectification—Section gives court broad discretion—Companies Act 61 of 1973, s 115.

**Company**—Shares and shareholders—Shares—Register of members—Rectification—Members purportedly appropriating deceased's shares without notice to his estate in order to conclude property transaction—Delay in applying for rectification not bar thereto—Companies Act 61 of 1973, s 115.

**MV BANGLAR MOOKH**

**OWNERS OF MV BANGLAR MOOKH v TRANSNET LTD (SCA)**

FARLAM JA, CACHALIA JA, TSHIQI JA, WALLIS JA and PLASKET AJA  
2012 FEBRUARY 12; MARCH 30  
[2012] ZASCA 57

**Evidence**—Expert evidence—Evaluation—Expert evidence as to cause of occurrence—Unsafe to rely unduly on demeanour instead of inherent probabilities—Expert evidence reconstructing incident only reliable where underlying facts on which reconstruction based established.

**Practice**—Pleadings—Striking out—Abuse of process—Court's power to strike out pleadings to be exercised only where fraud or dishonesty of party prevented fair trial—Only in extreme cases against defendant or where trial had already run its course—Court refusing to strike out defence where defendant's negligent failure to preserve certain records did not result in unfair trial.

## SOUTH AFRICAN CRIMINAL LAW REPORTS

JUNE 2012

### TABLE OF CASES

- S v Dlamini 2012 (2) SACR 1 (SCA)
- S v MM 2012 (2) SACR 18 (SCA)
- S v Latha and Another 2012 (2) SACR 30 (ECG)
- S v Qeqe 2012 (2) SACR 41 (ECG)
- S v Booï 2012 (2) SACR 52 (FB)
- S v Mchunu 2012 (2) SACR 56 (KZP)
- Director of Public Prosecutions, Western Cape v Prins 2012 (2) SACR 67 (WCC)
- S v Mcoseli 2012 (2) SACR 82 (ECG)
- S v Mkhize 2012 (2) SACR 90 (KZD)
- S v Motsema 2012 (2) SACR 96 (GSJ)

### FLYNOTES

**S v DLAMINI (SCA)**

FARLAM JA, VAN HEERDEN JA, CACHALIA JA, SNYDERS JA and MAJIEDT JA  
2012 FEBRUARY 17; MARCH 27



[2012] ZASCA 26

**Indictment and charge**—Duplication of convictions—Robbery—Accused charged with and convicted on three counts of robbery—Accused one of three perpetrators, one of whom was armed and threatened a group of three women—Robbers took their property and departed—Separate intent by robbers to rob each woman—No duplication of convictions.

**S v MM (SCA)**

MTHIYANE DP, HEHER JA, MAJIEDT JA, WALLIS JA and NDITA AJA

2012 FEBRUARY 24; MARCH 8

[2011] ZASCA 5

**Rape**—Elements of—Penetration—Proof of—Expert medical evidence—Mere handing in of doctor's statement insufficient, except where no confusion that penetration had been proved.

**Prosecution**—Prosecutor—Powers and duties of—In prosecuting cases of rape—Semble: Increasingly rare for doctor who examined complainant in such cases to be called to explain medical report—In principle, unless no issue about fact of rape, doctor should be called as witness.

**S v LATHA AND ANOTHER (ECG)**

KEMP AJ

2012 MAY 7–9

**Murder**—Sentence—Imposition of—Factors to be taken into account—Witchcraft—Accused, as result of influence of witchcraft, labouring under delusion which, though not altering their guilt legally, did palliate, in some measure, horror of crime—Such factor constituting extenuating circumstance—Two accused, 29 and 23 years old, sentenced to 20 years' and 15 years' imprisonment, respectively, for murder of deceased whom they believed was bewitching their family, but five years of sentence conditionally suspended.

**Witchcraft**—Contravention of s 1(a) of Witchcraft Suppression Act 3 of 1957—Section providing for situation where persons accuse another person of being a witch or wizard, in circumstances where they would not have been criminally liable at common law, but where imputations led to death or injury of person imputed to be a witch—Purpose of section to punish those whose utterances result in other people killing or injuring another person.

**S v QEQE (EC)**

GROGAN AJ

2011 JUNE 8

**Murder**—*Mens rea*—Intention to kill—*Dolus eventualis*—What constitutes—Accused, as driver of motor vehicle, executing dangerous manoeuvre, fully aware and reckless of danger it posed to those in vicinity in general and in particular to those killed when vehicle struck them—Accused can in legal sense be said to have 'consented' or 'reconciled himself' to or 'taken into the bargain' fact that persons in vicinity might be struck by vehicle and killed—State of mind of accused in such circumstances amounting to *dolus eventualis*—Accused guilty of murder of those struck and killed by vehicle.

**S v BOOI (FB)**

HANCKE AJP and CILLIÉ J

2010 AUGUST 12

**Sexual offences**—Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007—Where no penalty prescribed in Act in respect of contravention—Whether absence of penalty clause rendering criminalisation clause ineffective—Despite absence of penalty clause, legislature had clearly characterised conduct as a criminal offence worthy of punishment—Courts entitled to convict and to impose punishment.

**S v MCHUNU (KZP)**

RALL AJ

2011 SEPTEMBER 14, 16

**Sexual offences**—Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007—Where no penalty prescribed in Act in respect of contravention—Whether absence of penalty clause rendering criminalisation clause ineffective—Despite absence of penalty clause, courts entitled to convict and to impose punishment—Maxim *nulla poena sine lege* discussed.

**DIRECTOR OF PUBLIC PROSECUTIONS, WESTERN CAPE v PRINS (WCC)**

BLIGNAULT J, CM FORTUIN J and MANTAME AJ  
2012 MAY 11

**Sexual offences**—Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007—Where no penalty prescribed in Act in respect of contravention—Whether absence of penalty clause rendering criminalisation clause ineffective—Such failure infringing *nulla poena sine lege* principle—Principle firmly established as part of South African legal system and to be regarded as implied provision of Constitution—Charge or indictment alleging contravention accordingly not disclosing offence.

**S v MCOSELI (ECG)**

PICKERING J and MAGEZA AJ  
2011 NOVEMBER 2

**Court**—Judicial officer—Presiding officer required to set out evidence and analyse evidence in judgment.

**Evidence**—Witnesses—Hostile witness—Declaration as hostile witness—Prosecutor not complying with requirements of s 190(2) of Criminal Procedure Act 51 of 1977—Declaration as hostile witness irregular.

**Sentence**—Imposition of—Judgment on sentence—Judgment making no reference to minimum sentencing provisions that were applicable—Judgment of such poor quality that it could be inferred that magistrate had failed to apply his mind.

**S v MKHIZE (KZD)**

HENRIQUES J  
2011 DECEMBER 7, 8

**Trial**—Cross-examination—As to previous sexual experience or conduct of witness—Prohibition of in s 227 of Criminal Procedure Act 51 of 1977—Section designed to prevent victims of sexual assault from suffering ‘secondary sexual assault’ at hands of courts and prosecuting agencies—Thus complainants to be protected from unnecessary and irrelevant questioning as to previous sexual experiences—At same time court to ensure that full and thorough ventilation of issues to take place—If questioning relevant to issue in trial depending on defence proffered, it ought to be allowed.

**S v MOTSEMA (GSJ)**

JOFFE J  
2011 NOVEMBER 23

**Arms and ammunition**—Unlawful possession of arms and ammunition—Joint possession during course of robbery—When possession may be inferred.