

Media Statement



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TO: ALL MEDIA

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**RE: COURT DISMISSES APPLICATION FOR LEAVE TO APPEAL BOTH
CONVICTION AND SENTENCE**

The Klerksdorp high Court dismissed the leave to appeal the conviction and life sentence brought by Mogale (36). Mogale was charged with the Contravention of Section 3 of 32 of 2007 (Rape) read with the provisions of Section 51(1) of Act 105 of 1997.

The complainant in this case was 82 years old. She had glaucoma in one eye and severe eyesight problems in the other eye. The court heard that during November 2015, the complainant was in the kitchen of her home, alone. The accused then entered the kitchen through the open door, grabbed her by the arm and dragged her to the bedroom. He pushed her onto the bed whilst making threats to stab her if she screamed. Overpowering the old woman, he then undressed her and had sexual intercourse with her without her consent.

The son of the complainant unexpectedly arrived home. When he entered the house, he realised that there was someone in the room of the complainant and proceeded to the room. He found Mogale standing in the room and the complainant seated on the bed with her head bowed forward and asked her what happened. She did not respond. He then asked the accused what he was doing in the house, as they were not used to visiting each other. At first he did not reply, but later stated that he was sent by the complainant to buy alcohol for her.

There was no DNA found on the scene and on the body of the complainant. The version of both the complainant and her son were accepted as truthful by the court and the court found that there was no mistake on identity or indication of falsely implicating the accused. On the other hand, the accused could not provide any acceptable explanations for his defence.

During mitigation, the accused could not adduce any substantial and compelling circumstances enabling the court to deviate from imposing the prescribed minimum sentence. Judge Hendricks sentenced him to life imprisonment. In his judgment, he stated that rape was a repugnant crime and that the courts have the responsibility to protect the citizens especially the elderly and young children.

The accused applied for leave to appeal against both the conviction and sentence and the court dismissed both applications.

The NPA welcomes this and commends Advocate Douw Jacobs for his tireless efforts in making sure that the accused is punished for his conduct.

Kind Regards,

Advocate Tembeka Mbadu
Senior Deputy Director of Public Prosecutions
DPP Mmabatho