

(Durban and Coastal Local Division) CASE NO: CC27/04

In the matter between : The State and 1. SCHABIR SHAIK et al

Judgment : 2005-05-31

Charge 1 (abbreviated)

The main charge on count 1 is that of contravening section 1(1)(a) of the Corruption Act No 94 of 1992.Shaik, or one or other of his accused companies, gratuitously made some 238 separate payments of money, either directly to or for the benefit of Mr Jacob Zuma, who held high political office throughout this period....to influence Zuma to use his name and political influence for the benefit of Shaik's business enterprises or as an ongoing reward for having done so from time to time.

Charge 2 (abbreviated)

Then the second main charge is one of fraud (in that) Shaik's director's remuneration and a loan indebtedness to Proconsult (Pty) Limited, which is accused No 6, in a total amount of R1 282 000, were written off (in) such accounts, and that was done on the false pretext that they were expenses.

Charge 3 (abbreviated)

Then, finally, as the main charge on count 3, there is a further allegation of corruption, this one in contravention of section 1(1)(a)(I) only, of the Corruption Act. That arises from the following circumstances. As a consequence of the revelations by Miss Patricia de Lille in Parliament on 9 September 1999 about allegations of corruption during the process of bidding for contracts in the Government arms acquisition programme and her moving of a notice of motion in Parliament for the appointment of a judicial commission of inquiry to investigate these allegations, there were an increasing number of calls in the media for a public inquiry into the matter, eventually including resort to the Special Investigation Unit of Judge Heath. That was reinforced by the Minister of Defence agreeing on 28 September 1999 that the normal review of such an acquisition exercise carried out by the Auditor-General's department would in this instance be regarded as one of high risk, which meant particular attention would be paid in the audit process to the way in which agreements or bidding awards were reached and contracts concluded.

The State alleges that on 30 September 1999, and at Durban, accused No 1, acting for himself and all the presently-charged companies, met the local director of the Thomson-CSF South African companies, one Alain Thétard. At this meeting the suggestion was made, either by Shaik or by Thétard that, in return for the payment by Thomson's to Zuma of R500 000 a year until another suitable source of revenue became available in the form of dividends from ADS, a situation that is dealt with later, Zuma would shield Thomson's from the anticipated inquiry and thereafter support and promote Thomson's business interests in this country.

..... at a further meeting, again in Durban, on 11 March 2000 ... between Shaik, Thétard and Jacob Zuma, Jacob Zuma confirmed his acceptance of the proposal to Thétard, who thereafter on 17 March 2000 sent a telefax message to his superiors in Paris from the local Thomson office in Pretoria, advising them that the proposal was confirmed and accepted.

Judge Squires In the High Court of South Africa found that

1. Since all the accused companies were used at one time or another to pay sums of money to Jacob Zuma in contravention of section 1(1)(a)(I) or (ii) of the Corruption Act and accused No 1 directed them to that end or made payments himself, all the accused are found GUILTY on the main charge on count 1.
2. (i) On count 2, accused No 1 was party to the false representations made that constitute the main charge of fraud and he used accused Nos 4, 7, 9 and 10 in so doing. Those accused are accordingly found GUILTY of the main charge on count 2.
(ii) Accused Nos 2, 3, 5, 6, 8 and 12 are found NOT GUILTY on count 2.
3. (i) On count 3 accused No 1 is found GUILTY on the main charge of contravening section 1(1)(a)(I) of the Corruption Act.
(ii) Accused Nos 4 and 5 are found GUILTY on the first alternative charge of contravening section 4(a) and 4(b) of Act 121 of 1998.
(iii) Accused Nos 2, 3, 6, 7, 8, 9, 10 and 12 are found NOT GUILTY on count 3.

See: [Full Text of judgement](#)