

SOUTH AFRICA / JUDGMENT

S v Kruger-De Lange (CC101/16) [2021] ZAGPPHC 545 (6 August 2021)

[2021] ZAGPPHC 545

COURT

North Gauteng High Court, Pretoria

BEFORE

Senyatsi

CASE / FILE NUMBER

CC101/16

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REPUBLIC OF SOUTH
AFRICA

IN THE HIGH COURT
OF SOUTH AFRICA
GAUTENG LOCAL
DIVISION, PRETORIA
HELD IN PALMRIDGE
CIRCUIT COURT

(1)

REPORTABLE: NO

(2)

OF INTEREST TO OTHER
JUDGES: NO

(3)

REVISED: NO

CASE NO: CC101/16

In

the matter between:

THE
STATE
and
NAOMI
KRUGER- DE LANGE

JUDGMENT

Delivered: By transmission to the parties via email and uploading onto Case Lines the Judgment is deemed to be delivered. The date for hand-down is deemed to be 6 August 2021

SENYATSI J:

[1] The accused was charged with five counts as follows:

count 1: arson;

count 2: murder (read with provisions of section 51 (1) of Act 105 of 1997);

count 3: fraud;

count 4: fraud and

count 5: fraud.

After hearing the witnesses by the State, an application was launched by the Defence in terms of s174 of the Criminal Procedure Act 51 of 1977.

[2] The State opposed the application for discharge on all counts except count 5: fraud, for which the accused was immediately discharged. After the court considered the application in respect of the remaining counts, the application was granted in favour of the accused on all four remaining counts.

[3] The State applied for a reasons for the discharge and after a series of challenges, some of which were related to the Covid-19 and lockdown, the reasons are now provided as set out below.

[4] The issue that required determination at the end of the prosecution's case was whether there was evidence on which the court might convict the accused in relation to the remaining four counts. In addressing this issue, the underlying principles governing considerations to be given by the court will be dealt with and applied to the facts of this case.

[5] The application for discharge at the end of the prosecution is regulated by 174 of the Criminal Procedure Act 51 of 1977 which provides as follows:

"If, at the close of the case for the prosecution at any trial, the court is of the opinion that there is no evidence that the accused

committed the offence referred to in the charge or any offence of which he may be convicted on the charge, it may return a verdict of not guilty."

It is, without doubt that the court is seized with a discretion to apply itself on the evidence adduced on behalf of the prosecution to assess if the evidence is sufficient to support conviction of the accused. This is a fundamental imperative of our criminal justice system which is now fully recognised by our new constitutional order.

[6] It should be emphasized that the accused in this case exercised her right to remain silent and did not disclose the basis of a defence. Consequently, the state bears the onus to prove its case beyond a reasonable doubt that the accused was guilty of the remaining four counts.

[7] The approach to be adopted by a court in considering the application is settled in our law. In *S v Lubaxa*[1] the court held as follows:

“[10] section 174 of the Act repeats in all material respects the terms of its predecessors in 1917 and 1955 Criminal Codes. It permits a trial court to return a verdict of not guilty at the close of the case for prosecution if the court is of the opinion that there is no evidence (meaning evidence upon which a reasonable person might convict: S v Khanyapa 1979 (1) SA 894 (A) at 838 F-G that the accused committed the offence with which he is charged, or an offence which is a competent verdict on that charge.”

[8] The manner in which that discretion is to be exercised has proven controversial in the past, before the advent of our new constitutional order. For instance, In *S v Shuping*[2] which is an Appellate Division decision before the advent of our new constitutional order, the court had the following to say about the exercise of discretion:

“At the close of the State’s case, when discharge is considered, the first question is (i) is there evidence on which a reasonable man might convict; if not (ii) is there a reasonable possibility that the defence evidence might supplement the state’s case? if the answer to either question is yes, there should be no discharge and the accused should be placed on his defence.” As will be seen later, this is no longer the approach.

[9] The approach as proposed in *Shuping* case, will not find application in our new Constitutional democracy. The right to be discharged at the end of the prosecution’s case does not necessarily arise from consideration relating to the burden of proof or the right of silence or the right not to testify, but the right not to be prosecuted in the absence of a minimum evidence upon which a person might be convicted. It cannot only not even be a consideration that if refusal to discharge at the end of the prosecution, that the person might incriminate himself/herself.[3]

[10] In *S v Phuravhatha & Others*[4] the court held as follows:

“The presumption in favour of innocence, the fact that the onus rests on the State, as well as the dictates of justice in my view will normally require an exercise of discretion under s174 in favour of an accused person where the State case is virtually and basically non-existent. Strengthening or supplementation of a non-existent State’s case is a physical impossibility.”

[11] Since the inception of our Constitutional order, conflicting views emerged in our courts as to whether or not the Constitution has impacted on the test to be applied by a court in an application in terms of s174 of the Criminal Procedure Act. The decisions led to our Supreme Court of Appeal in *S v Lubaxa* [5] which held as follows:

“[18] I have no doubt that an accused person whether or not he is represented is entitled to be discharged at the close of the case of the prosecution if there is no possibility of a conviction other than if he enters the witness box and incriminates himself. The

failure to discharge an accused in those circumstances, if necessary *mero motu*, is in my view a breach of the rights that are guaranteed by the Constitution and will ordinarily vitiate a conviction based exclusively on his self-incriminatory evidence.”

[12] The credibility of the prosecution’s witnesses at the stage of s174 application plays a limited role. However, if the relevant evidence adduced at the end of the State’s case is of such poor quality that no reasonable person could possibly accept it, the court can ignore such evidence.[6]

[13] In *S v Agliotti* [7], In dealing with the issue of credibility state witnesses at the s174 application stage, the court said the following:

“[272] In S v Lavhangwa 1996 (2) SACR 453 (W) the view was expressed that the processes under s174 translate into a statutory granted capacity to depart discretionally, in certain specific and limited circumstances, from the usual course, to cut off the tail of a superfluous process. Such a capacity does not detract from either the right to silence and all the protection against self-incrimination. If an acquittal flows at the end of the State’s case the opportunity or need to present evidence by the Defence falls away. If discharge is refused, the accused still has the choice whether to testify or not. There is no obligation on him to testify. Once this court rules that there is no prima facie case against the accused, there also cannot be any negative consequences as a

result of the accused’s silence in this context.

[273] I agree with the view that it is an exercise in futility to lay down rigid rules in advance for an infinite variety of factual situations which may or may not arise. It is this, in my view, also unwise to attempt to banish issues of credibility in the assessment of issues in terms of s174 or to ‘confine judicial discretion’ to ‘musts’ or ‘must nots’.”

I agree with the sentiments expressed by the court in that case because

drawing an adverse inference would infringe on the right of the accused

to remain silent.

[14] In *S v Dewani* [8] the court said the following in returning a verdict of not guilty on an application in terms of s174:

“[15] To therefore summarise the legal position regarding applications in terms of section 174:

- (a) An accused person is entitled to be discharged at the close of the case for the prosecution if there is no possibility of a conviction other than if he enters the witness box and incriminates himself;
 - (b) In deciding whether an accused person is entitled to be discharged at the close of the State's case, the court may take into account the credibility of the State witnesses, even if only to a limited extent;
 - (c) Where the evidence of the State witnesses implicating the accused is of such poor quality that it cannot safely be relied upon, and there is accordingly no credible evidence on record upon which a court, acting carefully, may convict, an application for discharge should be granted."
- [15] I now deal with the evidence to prove each of the counts and whether the evidence was of such quality that s174 ought to be refused.

ARSON AND MURDER

- [16] As already stated before, count 1 and 2 pertain to charges of arson and murder. On 4 October 2010, Mr Phillip Cornelius De Lange (the deceased on count 2) succumbed to burn wounds and smoke inhalation. The State alleges that the accused (Naomi Kruger- De Lange), who was married to the deceased, deliberately and unlawfully set the house on fire on 1 October 2010. The house was occupied by the deceased and the accused.
- [17] The two counts were interlinked in order to prove the murder count against the accused, the State had the burden to procure credible evidence that the accused was responsible for setting the house or building alight which resulted in the deceased's death. The State had to prove that the accused set the house alight which was the property of Mr Dirk Theuniessen with the intention to destroy or damage the building and with the intention to cause the death of the deceased.
- [18] It was contended by the Defence that the cautionary rule of a single witness had to be considered where the State led evidence of a single witness, Mr Frans Langa. I do not think at this stage of the s174 proceedings, the cautionary rule of a single witness applied. This view is supported by *S v Miggel*[9] where the court held as follows:

"It is settled law that the evidence of a single witness must be approached with caution. In the normal course of events, the evidence

of a single witness will only be accepted if it is in every important respect satisfactory or if there is corroboration for that evidence (See S v Sauls and Others 1981(3) SA 172 (A) at 180E-G; S v Letsedi 1963 (2) SA 471(A) at 473 F; R v Mokoena 1956 (3) SA 81 (A) at 85-6) The corroboration that is required is confirmatory evidential material outside the evidence that is being corroborated. (S v Khumalo [1991] ZASCA 70; 1991 (4) SA 310 (A) 328 A-B".

- [19] It is common cause that the State relies on circumstantial evidence in respect of counts 1 and

2. It was contended by the State that the evidence of Mr Frans Langa, in as far as it relates to contradictions he made at the inquest enquiry that the accused came out of the burning house screaming and crying and the evidence in chief at this trial that the deceased came out of the house first covered in flames whilst the accused followed from behind and that the latter was apathetic and did not assist in helping to extinguish the flames that had engulfed the deceased, should be viewed with circumspection in light of his unchallenged evidence during the trial that he was not an isiZulu speaker and that the proceedings were not in his Maputo Shangaan language. For reasons that will follow, I am not in agreement with this submission.
- [20] I do not agree that the evidence of Mr Langa was substantially satisfactory in every material respect. He did not implicate the accused directly as having set the house alight. It is common cause that the accused was in the house with the deceased at the time of the fire incident on 1 October 2010. It is also common cause that during the morning of that fateful day, the accused and deceased left for the bank at around 7h00 and returned around 8h00. There has not been evidence tendered that would lead for instance to the deceased and the accused why they heard arguing or for that matter even fighting on the morning of the incident. I am of the view that to ask this court to draw an adverse inference that the presence of the accused at the scene of the fire and the impression created that she was disinterested in assisting the deceased is likely the course of fire. The fact of the matter is that the accused was married to the deceased and was with the deceased as his spouse at the scene.
- [21] I hold you as set out in [20] above because in his testimony in chief, Mr Langa stated that on the day of the incident he was working with Mandy, packing tools in the garage that was about 50 metres away from the main house. There was a prefabricated fence with palisades on top of which and in between was an ivy creeper plant. There was also an oak tree between the garage, fence and the house. Whilst busy in the garage packing away the tools they heard a loud sound and on checking what was happening, Mr Langa saw the accused and the deceased come out of the house engulfed in flames on his head and chest area. The deceased ran for the fish pond which was in the courtyard. The fish pond had water although it was covered with a wire mesh. At that stage Mr Langa rushed to the deceased to try and extinguish the flames. Once the flames were extinguished, he asked Mandy to help him load the deceased in the car and he took a hose pipe to try and put out the flames coming out the bedroom of the deceased and accused through the window. The deceased was rushed to the doctor for medical attention by the accused.
- [22] An inspection in loco was carried out before cross-examination. Although Mr Langa had not testified about the existence of a large oak tree during his evidence in chief, it became apparent that the tree stood between the garage and the house where the incident took place and the tree clearly obscured the view from the garage such that in order to observe the house one had to move to the far-left side of the garage from where the best view would be if one stands with one's left shoulder against the garage door's frame. Consequently, it follows

that Mr Langa's ability to observe

what was taking place was probably limited.

- [23] During re-examination by the State, Mr Langa was asked about the ivy-creeper plant that grows in the vicinity of the place through which he had to look in order to observe the incident taking place at the house. His response was that the creeper was cut-off and did not reach the palisade fence.[10] When further questioned by the State whether he could see through the palisade and whether there was anything between the blades of the palisade that prevented his view he said there was nothing. [11]
- [24] Mr Langas' evidence was contradicted by the new owner of the property, Mr Theuniessen who was present at the premises before and after the fire. According to Mr Theuniessen, he took photos of the immediate surrounding area, including the palisade. Mr Theuniessen stated that there was an ivy- creeper plant growing on the palisade. He said that should one stand in front of the house and look at the garage, approximately 60% of one's view would be closed or obscured by the ivy creeper plant.[12]
- [25] During cross-examination, Mr Langa also confirmed there was a green John Deere lawnmower present on the premises that ran on petrol. He, however, without being questioned further stated that at the time of the incident the John Deere lawn mower had already been removed by Mr Jaco de Lange.[13]
- [26] Mr Langa's evidence about the John Deere lawn mower was contradicted by Mr Theuniessen. The latter's testimony was that he arrived at the scene on the day of the incident after being called by the accused who was screaming and crying saying the farm was burning.[14]
- [27] When asked about the John Deere lawn mower by the State, specifically whether he knew anything about the John Deere lawn mower, he confirmed he did. He said the lawn mower was in the garage and that it was removed a day after the incident by another lady, presumably a relative of Mr Jaco De Lange.
- [28] Mr Theuniessen was asked about the accused's demeanour and behaviour at the scene of the fire. It should be remembered that according to Mr Langa, the accused did not render any assistance[15]; she was not crying[16] and she did not make a phone call in his presence.[17] This evidence was also contradicted by Mr Theuniessen who stated that when the accused called him about the fire, she was crying and he could hear shouting and screaming in the background.
- [29] During cross-examination after his evidence-in-chief, Mr Langa was confronted by the record of the Inquest Inquiry at Meyerton Magistrate's Court which showed that he gave evidence under oath that the accused came out of the house on fire running and crying and that she was followed by the deceased who was engulfed in flames on his head and body. Mr Langa said that it could have been a misunderstanding as his home language was Maputo Shangaan whereas the inquest proceedings were conducted in IsiZulu.[18] In my considered

view, it appears that Mr Langa wanted to portray the accused in a negative manner, mainly that she was apathetic to the crisis unfolding before her eyes, that she did not show any emotion and that she was quiet when in fact, the version of an independent witness, Mr Theunissen, was that the accused was frantic and crying when she called him. It is understandable because her husband had sustained burn wounds. She is the one who took the deceased to the doctor for treatment and eventually arranged for a helicopter to fetch the deceased and transport him to a hospital in Johannesburg. This was only possible after it was confirmed to her that the medical aid would cover the costs.

[30] Mr Anthony Bruno was also called to testify about the incident. He worked for the Midvaal Municipality Fire Department. He conducted investigations around the fire incident at the premises.[19] In my view, Mr Bruno cannot be regarded as a fire expert because he conceded during cross-examination that up until the date of the fire incident, he had not received any form of training to qualify him as a fire investigation expert. In fact, he only attended a course as a fire investigator in 2011. His handling of the investigation is a testimony to his lack of expertise. He allowed his colleague to contaminate the evidence by handling a piece of the mattress and other important evidence material with his bare hands. He was not able to determine the cause of the fire and concluded in his report that South African Police Service Forensic Investigations were to conduct further investigations. The South African Police Service Forensic Investigations never conducted

such investigations. Mr Bruno furthermore bungled up the investigations by cutting a piece of a foam mattress he collected from the scene and placing the piece in a tin he bought at a local private company called Spray Mate.[20]

[31] Mr Bruno's inexperience and lack of expertise as a fire investigator as well as the quality of the investigations he conducted on the scene was highlighted during re-examination by the State. He indicated that the photos he took at the scene were later used as examples of how it "should not" be done during his fire investigation training course in 2011. [21] Consequently, it follows that this court cannot place any weight on his evidence.

[32] Colonel Bekker, the commander of the South African Police Services Forensic Fire Investigation also testified on the fire incident. He was not involved in the initial investigation of the fire incident. He was requested, as the trial was in progress on the 18 June 2018 to avail himself for the trial. He was asked by the State to testify regarding the origins of the fire.[22] His evidence in this regard was of no value to this court. It was based on the photos taken by Mr Bruno, who as already stated, and conceded that during fire investigation training he attended in 2011, were used in the training as an example of "how not to take" such photos for fire investigation purposes. This court is not satisfied with how the South African police service's forensic fire investigation unit failed to do their work of investigating the origin of the fire on the scene whilst the evidence was still fresh. To attempt to do so eight years after the incident and was in my view a proverbial own goal. The police experts are paid to do the work and investigate crimes professionally. The attempt by the State to call Colonel Bekker to express a view on the origin of the fire when the horse has

bolted eight years earlier was a futile attempt to prove the impossible. Colonel Bekker would most likely have added value to the process if he had been on the fire scene before contamination of evidence, eight years earlier. It follows that his evidence cannot carry any weight to sustain a conviction on the arson charge.

- [33] It follows, therefore, that there is no evidence on record implicating the accused as the arsonist who initiated the fire by setting the premises alight. That said, it must also follow that the evidence to sustain conviction on count 1 and 2 against the accused is of such poor quality that it cannot be relied upon. The discharge of the accused in terms of s174 on counts 1 and 2 is therefore justified.

COUNT 3: FRAUD

- [34] The allegation against the accused on this count is that she unlawfully, falsely and with intention to defraud and to the potential or actual prejudice of Mr Jaco De Lange (the deceased's son) represented to Mr De Lange that she had a buyer or potential buyer for his immovable property and that due to the accused's misrepresentation, his immovable property was later sold at public auction.
- [35] Mr De Lange gave evidence on behalf of the State to sustain the charge and conviction. He admitted that the property was sold on public auction due to default in payment of rates and taxes to the Midvaal Municipality.[23] He conceded that he never asked the accused to pay rates and taxes on his behalf.[24] He also conceded that he was in arrears with his mortgage bond repayment although ABSA, the bondholder did not foreclose on the mortgage bond over the property.
- [36] Although Mr De Lange blamed the accused for the public auction of the immovable property and for making him believe that there was a buyer or potential buyer for the property, he conceded that as the owner of the property he should not have stopped paying for the bond, rates and taxes as well as the electricity payable on the property. He admitted that he was not in a position to pay because of the financial problems he was facing at the time.[25]
- [37] The evidence on record shows that the reason for the sale of the immovable property was not due to the misrepresentation made by the accused but was due to the failure by Mr De Lange to make payments of the rates and taxes to the Midvaal Municipality. Accordingly, there is no factual basis to link the accused to the sale of the house in a public auction. Consequently, the evidence linking the accused to count 3 is non-existent. It follows that the court has no basis to refuse a s174 application on this count. The accused is accordingly discharged on this count in terms of s174.

COUNT 4: FRAUD

- [38] The allegations to sustain count 4 of fraud is that the accused defrauded the Master of the High Court and/or the biological children of the deceased in count 2 to by pretending that the deceased compiled and executed a new Will and Testament, that he signed the said Will

and Testament in the presence of two witnesses and that the said document was indeed the last Will and Testament of the deceased. It must be mentioned here that the document used in support of this count was a joint Will and Testament which on its face was signed by the deceased and accused. It must also be mentioned that the two were married in community of property.

[39] No facts were provided by way of summary in terms of s144(3) of the Criminal Procedure Act 51 of 1977 pertaining to this count. The State essentially alleges that the accused drew up the last Will and Testament for her and her deceased husband, had it signed by two witnesses which was done in the presence of the deceased and had a signature affixed to the document which was not of her late husband and that the Will and Testament did not reflect her deceased husband's last Will and Testament.

[40] Three witnesses were called to prove this count 4. First to testify was Mr Bert Venter. He admitted that prior to making a statement he was given the police statement of another witness in this court, Ms Susana Venter, to read.[26] It was only after reading the statement that he gave his own. The court is very concerned about this practice as it is irregular

and brings the administration of justice to disrepute. In the hope that by giving Mr venter the statement of another witness, it was suggested to him what to say in his own statement and this, as already said, is manifestly irregular. I therefore place no value on his evidence to assist this Court.

[41] Mr Venter testified that the accused handed in a document to be typed at the shop where he worked as an assistant. After the document was typed he was asked to sign as a witness. He did not read the document. He was the second person to sign the document and his colleague Ms Sandra Venter Was the first to sign the document. At the time he signed the documents the accused had not signed it. He did not see any person in the shop with the accused.

[42] Ms Susana Katharina Venter was the second witness called by the State to prove count 4 of the fraud. She testified that the accused visited the printing shop three times on the day in question. The first time was to hand in a draft document for typing. The second time she came to the shop and requested her and Mr Bert Venter to sign the Will and Testament as witnesses. The accused did not sign the document herself. On the third occasion, the accused came to the shop in the company of a male person. They both signed the document in her presence.

[43] Ms Venter actually made four statements prior to giving evidence in court. In a statement dated 7 December 2017 she stated that Mr Phillips De Lange (the deceased) and the accused came to the shop. The deceased requested Ms Venter to type out the Will and Testament for them.[27] This statement states that the deceased and the accused signed the Will first and thereafter Ms S Venter and Mr B Venter signed as witnesses.[28]

- [44] After making the statement referred to in [43] above, Ms Venter was contacted by the son of the deceased named Mr Jaco De Lange on 7 December 2017 inquiring about the statement she gave. After the call, Ms Venter was visited by a female friend of Mr Jaco De Lange who showed her a photo of the deceased.[29] After the photo was shown to Ms Venter, she was taken to the police station by the said female friend. It should be remembered that this was seven years after the incident. I must mention here that Mr Jaco De Lange, through his female friend, had taken upon himself to do the police work. The purpose of the visit to the police station was to make a statement to the effect that the statement given on 7 December 2017 was not a true reflection of Ms Venter's words.[30]
- [45] Ms Venter indicated that this second "correcting statement was not compiled by herself but was typed by a female friend of Mr Jaco De Lange based on their telephone conversation and thereafter taken to the police station to be signed before the commissioner of oaths.[31] The witness under cross-examination, stated that she read the statement briefly before signing it but admitted she did not read it word for word.[32]
- [46] The third statement was undated and made before warrant officer Gibson. Ms Venter confirmed that before signing the statement she was given the opportunity to read through it. This statement also contradicts the witnesses evidence-in-chief on count 4. The statement states that the accused and an unknown elderly man came to the shop twice regarding the Will and Testament. The second time they left after asking Ms Venter and Mr Venter to sign as witnesses but did not sign the document themselves.[33]
- [47] Faced with such poor evidence, it goes without saying the court has no option but not to place any weight on such poor quality of evidence. It is so full of contradictions that no reasonable court can rely on it and accept it as evidence. Doing so will, in my view, will cause injustice to the accused especially given that four statements were made by Ms Venter as already stated. I cannot be expected of this court to ignore such serious material inconsistencies.
- [48] The third witness to testify to prove count 4 of fraud was Ms Dire Koekemoer. She was a manager at the printing shop at the time when the Will and Testament document was handed in for typing. She only saw the document and not the accused. She maintained that there was nobody else in the shop. Ms Koekemoer's evidence did not have any value to prove count 4 and sustain conviction or for that matter refusal to grant s174 application. It follows therefore that her evidence does not carry any weight.
- [49] Lieutenant Colonel Mashabela was called to testify as a handwriting expert to prove count 4.
4. After going into technical details on the identification of a forged signature, he conceded that the field of writing analysis is not an exact science, but an empirical science. It differs from DNA analysis or fingerprint analysis when a person is stuck for life with the same fingerprints and DNA he was born with.

- [50] Lieutenant Colonel Mashabela agreed with the proposition that there are certain factors that can influence a person's signature and make it different from one's other signatures, such as certain medicine taken by the person, a person's writing position, that is, whether one was standing or sitting when he signed, sickness and injuries.[34] The record shows that the deceased was not in good health, he was on medication for a stroke he suffered earlier in April 2010. It was confirmed by Ms Venter that the accused was with the deceased or an elderly man when they came to the printing shop with the Will and Testament to be typed. Based on the record before this court, the evidence of Lt Colonel Mashabela is not conclusive that the accused tempered with the deceased's signature because the differences of specimen signatures could have been a result of the factors conceded by him. This court can therefore not attach any weight to his evidence to sustain count 4.
- [51] The State failed to establish a prima facie case against the accused on the prejudice or potential prejudice suffered in count
4. The record shows that the representatives of the Master of the High Court claimed that the accused repudiated any benefits in terms of the alleged fraudulent last Will and Testament. Consequently, there is no benefit the accused was going to derive from the last Will and Testament.
- [52] The evidence presented before this court to secure convictions on count 4, is of such poor quality that no reasonable Court can place any weight on it. It follows therefore on this charge that the trial must be cut by bringing the proceedings to an end in terms of s174.

ORDER

[53] The following order is made:

- (a) The application in terms of s174 is granted and the accused is discharged on all counts.

SENYATSI ML

Judge of the High Court of South Africa

Gauteng Local Division, Johannesburg

REPRESENTATION

Date of hearing: 05 December 2019

Date of Judgment: 06 August 2021

State's Counsel: Adv AJ Fourie with Adv PW Coetzer

Instructed by: National Prosecuting Authority

Defence Counsel: Adv F Van As

Instructed by: Legal Aid Board of South Africa

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- [1] [2002] 2 All SA 107 (A) at para [10]
- [2] 1983
- (2) SA 119 (A) 120 H – 121 I
- [3] Same , Shupping case para [19]
- [4] 1992
- (2) SACR 544 (V)
- [5] 2001
- (2) SACR 703 (SCA)
- [6] Same, Mpethu, above
- [7] 2011
- (2) SACR 437 (GSJ)
- [8] (CC15/2014) ZAWCH 188
- [9] 2007
- (1) SACR 675(C) at 269 A-C
- [10] See Transcribed record of Mr Langa 23/5/2018 page 2 line 21, page 3 line 6
- [11] See record of Mr Langa on 23/5/2018 page 31 line 1-7
- [12] See record of Mr Theuniessen 28/5/2018 page 118 line 22 and page 119 line 11
- [13] See record of Mr Langa on 23/5/2018 page 11 lines 15-16
- [14] See record of Mr Theuniessen on 28/5/2018 page 120 line 16-20
- [15] See record of Mr Langa on 23/5/2018 page 8 line 23; page 9 line 4
- [16] See record of Mr Langa on 23/5/2018 page 9 line 5-6
- [17] See record of Mr Langa on 23/5/2018 page 9 line 7-9
- [18] See record of Mr Langa on 23/5/2018 page 10 line 23; page 11 line 14
- [19] See record of Mr Theuniessen on 28/5/2018 page 119 line 18-25; page 120 lines 15-19
- [20] See record of Mr Bruno on 29/5/2018 page 184 lines 20; page 185 line 3
- [22] See record of Colonel Bekker on 22/10/2018 page 8 line 7-10
- [23] See record of Mr JJ De Lange on 24/5/2018 page 14 lines 19-25
- [24] See record of Mr JJ De Lange on 24/5/2018 page 47 line 20; page 48 line 3

- [25] See record of Mr JJ De Lange on 25/5/2018 page 48 lines 4-16
- [26] See record of Mr B Venter on 1/6/2018 page 8 lines 15-17
- [27] See record of Ms S Venter on page 59 lines 3-9
- [28] See record of Ms S Venter on page 61 lines 6-9
- [29] See record of Ms S Venter page 49 lines 16-24
- [30] See record of Ms S Venter page 52 lines 1-5
- [31] See record of Ms S Venter page 78 line 6; page 79 line 13
- [32] See record of Ms S Venter page 79 line 23 and page 80 line 5
- [33] See record of Ms S Venter page 71 lines 2-5
- [34] See record of Lt Col Mashabela on 12/3/2019 page 95 line 14 and page 96 line 25
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