

SOUTH AFRICA / JUDGMENT

S v Mabita (CC66/2023) [2024] ZAGPPHC 739 (1 August 2024)

[2024] ZAGPPHC 739**COURT**

North Gauteng High Court, Pretoria

BEFORE

Mosopa

CASE / FILE NUMBER

CC66/2023

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Policy**IN THE HIGH COURT OF****SOUTH AFRICA****GAUTENG DIVISION,****PRETORIA****CASE****NO: CC66/2023****DATE:**

06-03-2024

(1) REPORTABLE: YES

/ NO.

(2) OF INTEREST TO OTHER

JUDGES: YES / NO.

(3) REVISED.

DATE:

01/08/2024

SIGNATURE

In

the matter between

STATE

and

CHRIS

MABITA

Accused

JUDGMENT

MOSOPA, J: This is a judgment on merits. The accused Mr Chris Mabita an adult male South African citizen residing at P[...], Ext. [...], S[...], hereinafter referred to as the accused, is arraigned before me on one count of murder read with the provisions of Section 51(1) of Act 105 of 1997.

Allegations being that he unlawfully and intentionally killed the deceased mentioned in count 1 who was his fiancée.

The accused is legally represented by Adv Augustine from the Legal Aid South Africa and the state is represented by Adv Lalane from the Director of Public Prosecutions, Pretoria.

The accused pleaded guilty to the charge of murder and made a written statement in terms of the provisions of Section 112(2) of Act 51 of 1977 which can be summarised as follows;

- (1) That he is making the statement freely and voluntarily without any undue influence while in his sober senses.
- (2) He was fully apprised by his counsel Adv Augustine about the minimum sentence applicable and he understands such an explanation.
- (3) He admits that the deceased in count 1 was his fiancée but he also had a relationship with Nonhlanhla Mazibuko (hereinafter Nonhlanhla) and such relationship with Nonhlanhla caused unhappiness in his relationship with the deceased.
- (4) His relationship with Nonhlanhla was not a happy one as it was characterised by arguments and Nonhlanhla would always swear at the deceased and himself, he eventually terminated the relationship with Nonhlanhla on 5 March 2023.
- (5) On the 6 March 2023 he met with the deceased and informed her that he has terminated his relationship with Nonhlanhla, and the deceased was happy with such developments.
- (6) He also went to go and collect his belongings at Nonhlanhla's shack.
- (7) In the morning of the 7 March 2023 he admits that he was at the deceased' place of residence. He spent a little time together with the deceased and he told the deceased that he was going to attend a community meeting as he was deputy community chairperson in the area and that made the deceased to be angry.
- (8) He tried to stand up from the bed as they were seated on the bed at that stage. But the deceased pulled him back with his t-shirt. He then pushed her by the neck against the bed. He realised that when he grabbed her by the neck, he used excessive force while knowing that it could cause her death. Thereafter a short struggle ensued between the two of them and she laid on the bed.

- (9) When he tried to wake the deceased up, that is when he realised that she has passed away and he drank three sachets of rat poison in an attempt to end his life but woke up in the hospital.
- (10) He admits the correctness of the cause of the death records that is "consistent with asphyxial death".

The state accepted the statement in terms of Section 112(2) of Act 51 of 1977 pertaining to the guilty plea by the accused after it was read into record.

The accused in his guilty plea, which was subsequently accepted by the state as indicated, he denies planning the death of the deceased after the deceased indicated to him that she is terminating the relationship and he was not happy about that fact.

The accused did in his Section 112(2) statement cover the elements of the crime he is charged with which relates to intention, wrongfulness and mens rea in the cause of death of the deceased. I am satisfied that it is clearly conversed in the guilty plea and the fact that he acted excessively when he committed the offence. Therefore, the accused admits all the elements of the offence that he is charged with.

The accused denied planning to kill the deceased as alleged by the state. I am alive to the fact that there is no burden or procedural duty on the accused to do what the state is required to do in proving the guilt of the accused beyond reasonable doubt.

It is the duty of the state to prove factual allegations not expressly admitted by the accused. (See the matter of State vs. Van der Merwe and Others, 2011, Vol. 2. SACR 509(FB)).

I am also satisfied that the statements also touches on the merits of the case and explains how the accused killed the deceased.

I am not sure as to whether the accused in detail explained what motivated him to kill the deceased but my reading and understanding of the statement is regarding what happened after the deceased did not want the accused to leave when the accused wanted to leave her premises.

Having regard to the above I am satisfied that the state succeeded in proving the guilt of the accused on the strength of the guilty plea in terms of Section 112(2) Act 51 of 1977 and he must be convicted as charged;

I therefore return the following verdict.

- (1) Accused is found guilty murder read with the provisions of Section 51(2) of Act 105 of 1997.

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MOSOPA, J

JUDGE OF THE HIGH COURT

DATE:01/08/2024

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Prepared on 10 October 2026 · Esheria