



**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG LOCAL DIVISION, JOHANNESBURG)**

- (1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED.

SIGNATURE

DATE: 4 April 2022

Case No: SS87/2021

In the matter between:

THE STATE

and

NORMAN MAKGOPA

First Accused

TUMELO MAKGOPA

Second Accused

DENNIS PASHA

Third Accused

POTEGO MOHLALA

Fourth Accused

JUDGMENT

WILSON AJ:

- 1 On 8 October 2020, at Tswelopele Extension 8, near Tembisa, Pitso Rampya tried to steal a television set from the home of the first and second accused in

this case. Mosibudi Modiba, who is married to the first accused, Norman Makgopa, caught Mr. Rampya in the act. Mr. Rampya tried to flee, but the second accused, Tumelo Makgopa, ran after him, caught him, brought him back to the Makgopas' house and asked him what he was doing there. Mr. Rampya told a series of lies. He tried at first to say that he was in the house because he was tired and hungry – presumably looking for something to eat or somewhere to sleep. He then suggested that he wanted to buy a television set and wanted to ask how much the Makgopas' set cost.

- 2 Tumelo Makgopa found neither of these stories particularly convincing. Shortly after he was questioned at the Makgopas' house, Mr. Rampya was released into a large crowd of the Makgopas' neighbours on the street just outside the house. They slapped him and kicked him. Mr. Rampya tried to escape, but was apprehended and brought back to be assaulted further. As he was assaulted, Mr. Rampya was repeatedly questioned about who he was, and what he was doing in the Makgopas' house.
- 3 Eventually, one of the Makgopas' neighbours, Potego Malema, identified Mr. Rampya. It was suggested that Ms. Malema told the crowd that Mr. Rampya was a small-time criminal, who had recently robbed and killed someone in the area. Ms. Malema denied saying that when she testified before me, but there can be little doubt that, at some point during the crowd's assault of Mr. Rampya, it was decided that he was a criminal, who had to be dealt with.
- 4 The way the crowd decided to deal with Mr. Rampya was to take him to a nearby football pitch and burn him alive. He was forced down onto the ground.

A mattress was placed on top of him, and then set alight. He burned to death at the scene.

5 These facts are not in dispute. What is in dispute is whether the four accused persons in this case had a hand in Mr. Rampya's death. The State alleges that they did. All four men were indicted before me on charges of kidnapping, and premeditated murder. The State's case is that they were part of the crowd, and that they participated in Mr. Rampya's detention, assault and murder.

6 The first accused, Norman Makgopa, denies being part of the crowd, but all the other accused persons admit that they were present when Mr. Rampya was detained and assaulted outside the Makgopas' house. They deny participating in Mr. Rampya's murder, however. They also deny that they were present when Mr. Rampya was burned to death.

7 The State's case on the facts in dispute depends exclusively on the eyewitness evidence of two people who stood by and watched as Mr. Rampya was assaulted and killed. The question in this case boils down to whether the evidence given by the two eyewitnesses demonstrates, beyond reasonable doubt, that the accused men participated in Mr. Rampya's detention, assault and murder.

8 It is, accordingly, to the evidence of the two eyewitnesses that I now turn.

The evidence of Shoki Malatji

9 The State's first witness was Shoki Malatji. He resides near the Makgopas' home. At around 7pm on 8 October 2020, he was at home cooking. He heard a noise outside, and went to see what was going on. He saw a crowd of 20 to

- 30 people, 10 of whom were assaulting Mr. Rampya. Mr. Malatji identified Tumelo Makgopa, the third accused, Dennis Pasha, and the fourth accused, Potego Mohlala, as three of the ten people participating in the assault.
- 10 Mr. Malatji observed this for two or three minutes, before returning to his home to carry on cooking. Fifteen or twenty minutes later, he returned to the scene, and arrived just as Mr. Rampya was being brought back to the street having tried to escape. Mr. Malatji identified Norman Makgopa as being one of the men escorting Mr. Rampya back. Norman Makgopa was asking Mr. Rampya what he was doing at the Makgopas' house, after which he joined in the assault by punching and kicking Mr. Rampya.
- 11 At some point, Mr. Malatji says, Mr. Mohlala left the crowd, which then dragged Mr. Rampya to the sports field. Mr. Malatji followed the crowd to the field. The field is about 300 metres away from Mr. Malatji's home. There, Mr. Rampya's assault continued. A person who Mr. Malatji could not identify brought a mattress to the field.
- 12 Mr. Malatji then went home again for a short while, before going back to the sports field. By the time he returned, Mr. Rampya had been placed under the mattress, which had been set alight. Mr. Rampya tried to escape, but was, according to Mr. Malatji, apprehended by Norman Makgopa and Mr. Pasha, brought back to the mattress, and held down underneath it once more. By the time Mr. Malatji left, the mattress had been lit, but it was not burning particularly well. Mr. Malatji turned to Potego Malema, who was at the sports ground with him. He told her that he could not continue watching what was happening, and that he was going home.

- 13 Two days later, Mr. Malatji heard that Mr. Rampya had been killed. On 12 October, four days after the incident, Mr. Malatji gave a statement to the police. The police asked Mr. Malatji to confirm that all four accused persons in this case were involved in Mr. Rampya's murder. He did so. Mr. Malatji was subsequently taken to an identity parade, where he picked out all four accused from the line-up.
- 14 Mr. Malatji was cross-examined by counsel for all four accused. The cross-examination consisted, in the main, of challenges to Mr. Malatji's ability to see and identify the accused given the admittedly poor light conditions where Mr. Rampya was assaulted, and the even poorer conditions on the sports field. The incident took place after sunset. Mr. Malatji said that there was still some light at the beginning of the incident, but that it was fully dark by the time he returned to the street to see Norman Makgopa assaulting Mr. Rampya.
- 15 Mr. Malatji accepted that there were no sources of light at the street. He said that it was completely dark on the sports field. But he said that he could nonetheless see the accused men because he knew them, having been their neighbour for between one and three months. This makes no sense on its face, but Mr. Mthiyane, who appeared for the State, urged me to interpret Mr. Malatji to mean that he could actually see the accused men well enough to be able to identify them, even though the lighting conditions at both scenes were poor.
- 16 The problem is that, even if this is what Mr. Malatji meant, it is not what he said. I am required to give the accused men the benefit of any doubt to which the ambiguities in Mr. Malatji's evidence may give rise. I am also required to

keep in mind what Holmes JA has called the “fallibility of human observation” in carefully assessing Mr. Malatji’s evidence, and treating it with the requisite caution (*S v Mthetwa* 1972 (3) SA 766 at 768A).

- 17 The uncontested fact that Mr. Malatji had known the accused for some time provides some re-assurance as to the accuracy of his evidence (see *R v Dladla* 1962 (1) SA 307 (A) at 310C-E). However, Mr. Malatji ultimately refused to abandon the proposition that he can see people he knows in the dark. It may be that this can ascribed to inelegant expression, or even imprecise translation. But I am not entitled to make those assumptions in favour of the State.
- 18 Moreover, Mr. Malatji was clearly a reluctant witness. He gave evidence that he had been brought to the identity parade without being told where he was going. He also said that he had been asked to confirm the names of the accused men that the police suggested to him. He did not volunteer them himself. He cut an uncomfortable figure in the witness box.
- 19 If I am going to convict any of the accused of the very serious charges they face, I cannot rely solely on Mr. Malatji’s evidence. Mr. Malatji’s evidence is not so poor that it can be rejected in its entirety. But nor is it so reliable that it would, on its own, leave me without any reasonable doubts as to the truth of the propositions it was tendered to prove.

Potego Malema’s evidence

- 20 However, the evidence of the State’s second eyewitness, Potego Malema, was impressive. She lives on the same street as the Makgopas and Mr.

Malatji. At around 7pm on 8 October 2020, she heard a noise outside her home. She went outside to see a crowd of about 20 to 30 people assaulting Mr. Rampya. Ms. Malema had known Mr. Rampya for around two years at the time of his death, but she nevertheless needed to use the flashlight on her phone to identify him.

21 In this respect, Ms. Malema's evidence was careful and precise. She said that she needed to use her flashlight to identify Mr. Rampya, because he was right at the centre of the crowd. He was on the ground surrounded by people. However, she could see other people in the crowd because of light emanating from the houses on the street. Ms. Malema identified Tumelo Makgopa and Mr. Pasha, together with a woman called "Sonti", a man called "Malatji" (not Shoki Malatji but someone of the same surname) and another unknown person participating in the assault.

22 Ms. Malema said that she knew Tumelo Makgopa and Mr. Pasha well. They were both neighbours of hers. She said that she knew Tumelo Makgopa particularly well, as she used to stay in the same area as him before she moved to Tswelopele. She saw Tumelo Makgopa punch Mr. Rampya, and she saw Mr. Pasha slap him. The woman called "Sonti" threw or dropped a stone on Mr. Rampya's leg. "Malatji" also slapped Mr. Rampya. The crowd looked on.

23 Ms. Malema initially said that she watched the incident for about half an hour, but later conceded that she was only there for two or three minutes, before returning to her home for around 20 minutes. When Ms. Malema came out of her home again, the crowd had gone. She went back inside. A short while later

she heard noises emanating from the sports field, which is just three or four houses away from her home.

- 24 Ms. Malema went to the field and saw a crowd of around 20 or 30 people. There was a fire, with five people around it. Mr. Rampya was on the fire. He got up and tried to run away, but was caught, beaten and placed back on the fire. The fire was quite small in the beginning, so it was possible for Mr. Rampya's assailants to kick him and beat him with sticks while he was being forced down on to the fire.
- 25 After Mr. Rampya tried to get away, an unknown person fetched a mattress and Mr. Rampya was placed underneath it. The mattress was then set alight, but it took some time to burn properly. Mr. Rampya was trying to escape, but the five people around the fire were pushing him down underneath the mattress. Ms. Malema was standing around 20 metres away from the fire, but could see what was happening from the light of the fire itself.
- 26 Ms. Malema identified four of the five people around the fire as Norman and Tumelo Makgopa, Mr. Pasha and "Malatji". She did not know the fifth person. Ms. Malema stayed at the sports field until the fire became quite big. She said she could not hear any sounds from Mr. Rampya because the crowd was noisy.
- 27 Ms. Malema confirmed that Shoki Malatji was present both at the street outside the Makgopas' home, and on the sports field. She also confirms that Mr. Malatji said he was leaving because he did not want to watch what was happening. When Mr. Malatji left, Ms. Malema said that the fire was "medium" in size.

- 28 Ms. Malema found out that Mr. Rampya had died later that evening. She gave her statement to the police on 12 October 2020.
- 29 Ms. Malema was cross-examined extensively on the reliability of her identificatory evidence. She accepted that the visibility was generally poor, but insisted that there was enough light to identify the individuals she says were present at the street and on the sports field. As I have said, she explained that she used her torchlight to identify Mr. Rampya because he was at the centre of a large crowd, which was blocking sources of light from nearby houses. Those sources of light were sufficient, Ms. Malema said, to identify others in the crowd. At the sports field, Ms. Malema says she was able to identify people by the light of the fire, which was quite large by the time she left.
- 30 It was also suggested that Ms. Malema had told the crowd that Mr. Rampya had robbed and killed someone recently, and that he knew a resident of the area called “KG”. Ms. Malema denies that she said either of these things, but none of the parties suggested that this evidence, whether true or false, was material.
- 31 Ms. Malema was in every respect an impressive witness. Her evidence was detailed and careful. She had no detectable reason to lie. She was ready to concede where her evidence was not particularly incriminating. Critically, she accepted that Mr. Mohlala’s contact with Mr. Rampya on the street was not at all threatening. She said that Mr. Mohlala tried to lift Mr. Rampya up in what she called a “gentle” or “saving” way, before letting him fall to the ground again.

Detective Sergeant Meshack Rehlano

32 Detective Sergeant Rehlano was the last State witness. He gave evidence of the investigation into Mr. Rampya's death. Not much of what he said was material to the issues I have to decide, but it is appropriate to mention that it was put to him that he arrested but then allowed the man referred to by Ms. Malema as "Malatji" to escape because they hailed from the same area of Limpopo Province. It also emerged from his evidence that the person identified by Ms. Malema as "Sonti" was in fact Masontaga Khokho, who lives with Shoki Malatji, the State's first witness.

33 Sergeant Rehlano denied that he released "Malatji" for the reasons alleged. He said that the Makgopas' ancestral home is closer to his than "Malatji's". He said that he tried to arrest "Malatji", but that he could not locate him. He also said that, by the time he knew that "Sonti" and Ms. Khokho were the same person, Ms. Khokho had also left Tswelopele and could not be located. Finally, he said that the investigation of Mr. Rampya's death was difficult to carry out, and that he had very little co-operation from the Tswelopele community itself.

34 The suggestion that Sergeant Rehlano allowed "Malatji" to escape is, if true, obviously a matter of concern. But I do not see how it is material to whether any of the accused persons in this case participated in Mr. Rampya's murder. Nor can I find, as a matter of fact, that Sergeant Rehlano was in any way partial to "Malatji" or that he mishandled the investigation in any way. There is no evidence before me that would support either of those conclusions.

35 I am, however, satisfied that the fact that "Sonti" turned out to be Ms. Khokho is a further reason to treat Mr. Malatji's evidence with caution. He did not

volunteer this information to the police, or in his evidence. That is reason enough to conclude that Mr. Malatji's capacity to tell the whole truth may be impaired.

Mr. Mohlala's discharge application

- 36 At the close of the State's case, Mr. Robertson, who appeared for Mr. Mohlala, brought an application for Mr. Mohlala's discharge under section 174 of the Criminal Procedure Act 51 of 1977 ("the Act"). I granted that application for reasons I gave in a judgment I delivered *ex tempore* on 3 March 2022.
- 37 As should be abundantly clear by now, there was no evidence of any substance against Mr. Mohlala. Ms. Malema did not see him at the sports field where Mr. Rampya was killed, and her evidence was that he had attempted to save Mr. Rampya from the crowd when he was being assaulted on the street. This is consistent with the version put on Mr. Mohlala's behalf. That version was, from the outset, that Mr. Mohlala was present at the street where Mr. Rampya was first assaulted, but not at the sports ground. Mr. Mohlala also said that he had attempted to intervene to stop Mr. Rampya from being assaulted, but that he left the scene when that intervention was unsuccessful.
- 38 The only material before me to gainsay Mr. Mohlala's explanation and Ms. Malema's evidence is Mr. Malatji's evidence that Mr. Mohlala assaulted Mr. Rampya on the street outside the Makgopas' house. I have already given my reasons for concluding that Mr. Malatji's evidence could never support a conviction of any of the accused men on its own. But even if it could, the weight of evidence at the close of the State's case was that Mr. Mohlala probably had nothing to do with Mr. Rampya's death, and that he had, in fact, tried to prevent

it. In these circumstances, there was no possibility that I would convict Mr. Mohlala unless he confessed from the witness box or was incriminated by one of his co-accused. It has long been accepted that this is no reason to put an accused person on their defence, and that to do so in these circumstances would be to breach the constitutionally-entrenched privilege against self-incrimination (see *S v Lubaxa* 2001 (4) SA 1251 (SCA) at paragraph 18).

39 Accordingly, I found Mr. Mohlala not guilty and I discharged him. For the sake of completeness, I will formally record that verdict at the end of this judgment.

Norman Makgopa's case

40 Norman Makgopa denies having anything to do with Mr. Rampya's death. He gave evidence that, on 8 October 2020, he visited a friend in a nearby township about a kilometre away from his home. He arrived back home at 8pm. He found the television set in his home unplugged. He asked his wife what had happened. She reported that Mr. Rampya had tried to steal it, but had been caught. Norman Makgopa plugged in the TV, watched it, and went to bed at about 10h30pm.

41 Under cross-examination, Norman Makgopa added the detail that, at about 8h20pm, he went to speak to Tumelo Makgopa, who was bathing at the time. He spoke to him through the closed door of his room in the Makgopas' yard. He was unable to confirm whether Tumelo was present when he returned home at 8pm. He was also unable to say why Mr. Malatji or Ms. Malema would put him at the sports field participating in Mr. Rampya's murder.

42 Norman Makgopa's wife, Mosibudi Modiba, was called to corroborate Norman Makgopa's alibi. She confirmed that she found Mr. Rampya in her house, and that Tumelo Makgopa chased after him, apprehended him, and brought him back to the house, in the company of a crowd of other people. Tumelo Makgopa then took Mr. Rampya away. Norman Makgopa arrived home later that evening. Apart from a short trip to the toilet, he remained at home.

Tumelo Makgopa's case

43 Tumelo Makgopa was the only person to testify in his defence. His case was that he was present when Mr. Rampya tried to steal the Makgopas' television set, and that he was present while Mr. Rampya was assaulted in the street. Tumelo Makgopa says, however, that he did not participate in Mr. Rampya's assault, and that he did not participate in burning Mr. Rampya to death at the sports ground. He said he returned home when Mr. Rampya tried to escape and the crowd went running after him.

44 It is worth noting that neither Norman Makgopa nor Ms. Modiba are able to confirm when Tumelo Makgopa is said to have returned to his room. Norman Makgopa says that Tumelo Makgopa was bathing in his room at around 8h20pm, but can say nothing else.

Dennis Pasha's case

45 Mr. Pasha admits being present on the street when Mr. Rampya was assaulted. He denies participating in that assault, or being present at the sports field when Mr. Rampya was burned. He said that he left the crowd on the street to go home and get the cash necessary to repay a debt to Mr.

Mohlala, that he took the cash to Mr. Mohlala, and that, once he had done so, he returned home and stayed there.

46 Mr. Pasha then made an extraordinary string of allegations which had not been put to any of the State's witnesses. Nor, it seems, had they been mentioned to Mr. Mavata, who appeared for Mr. Pasha before me.

47 Mr. Pasha first sought to impeach Ms. Malema's evidence as tainted by bias. Ms. Malema had fallen out with him because he had let slip that she was having an affair with one of Mr. Pasha's work colleagues. Mr. Pasha also revealed that he, too, had an alibi from his wife, and that, what was more, there was another person, a Mr. Sekokotla, who had seen him that evening, and who could corroborate his version that he was at home at the time of Mr. Rampya's death.

48 Counsel of fainter heart might at this point have been inclined to withdraw. However, at the conclusion of Mr. Pasha's evidence, Mr. Mavata very properly sought to stand the matter down to consult with his client. He continued to act for Mr. Pasha, and asked for a short postponement to allow him to gather new evidence.

49 I granted that postponement. When the court reconvened, I heard the evidence of Eunice Motena, Mr. Pasha's wife, and that of Mr. Sekokotla.

Eunice Motena

50 Ms. Motena said that she was at home on 8 October 2020, completing an online assignment for a teaching course for which she was registered at UNISA. The assignment was time-limited, and required all her concentration.

She was dimly aware of what was happening on the street outside, but was so taken up with her assignment that she did not really pay any attention to it. She confirmed that Mr. Pasha arrived home at about 8pm. She did not discuss what Mr. Pasha had been doing with him, because she was completing her assignment. She said that Mr. Pasha left the house with money at about 8h10pm, and returned to the house at about 8h20pm. He then prepared some food, ate it, and then went to bed with his phone, which he was playing with for most of the rest of the evening.

- 51 At some point there was a knock at the door, which Mr. Pasha answered. She did not hear the conversation, or see who was at the door. After answering the door, Mr. Pasha returned to the bed and did not leave for the rest of the evening.

Frans Sekokotla

- 52 Frans Sekokotla lives at Tswelopele Extension 8. He drove into Tswelopele at around 8pm on 8 October 2020. He drove by the sports field. He could see a fire on the field. He was about 35 metres away from the fire, but could see the fire and 40 to 50 people around it. Mr. Sekokotla went to his house, unpacked the car, changed and went across to Mr. Pasha's house. He arrived, picked up some wooden pallets from Mr. Pasha, and left just before 9pm. He confirmed that Mr. Pasha was at home at 9pm. He was clear in his evidence that this was all that he could confirm.

The conclusions to be drawn from the material evidence

- 53 I have already concluded that Ms. Malema was an impressive witness. Although most of the events to which she testified took place after dark, she was able to explain how she saw what she saw. Her identification of Tumelo Makgopa and Mr. Pasha as participants in Mr. Rampya's assault at the street, and her identification of Norman Makgopa, Tumela Makgopa and Mr. Pasha as participants in burning Mr. Rampya at the playing field was clear, consistent and satisfactory in every material respect.
- 54 I have expressed very clear reservations with Mr. Malatji's evidence, but that evidence was not so unsatisfactory as to be completely worthless. Insofar as it confirms Ms. Malema's evidence, I accept that it has corroborative value. In this respect, Mr. Malatji confirms that Tumelo Makgopa and Dennis Pasha participated in Mr. Rampya's assault on the street, and that Norman Makgopa, Tumelo Makgopa and Mr. Pasha were present and participated in burning Mr. Rampya to death at the playing fields.
- 55 By contrast, I am not satisfied that any of the evidence presented on behalf of the Makgopas or Mr. Pasha is reliable. Neither Norman Makgoba nor Mr. Pasha completed their alibis. Norman Makgopa did not call evidence to substantiate that he was away visiting a friend until 8pm. Mr. Mohlala conspicuously failed to confirm Mr. Pasha's version that Mr. Pasha visited him at home to repay a debt at around the time Mr. Rampya was being burned to death.
- 56 The alibi evidence that was presented on behalf of Norman Makgopa and Mr. Pasha was wholly unsatisfactory.

57 The problem with Ms. Modiba's evidence is that the alibi she gave her husband was not mentioned to the police at the time of his arrest. Ms. Modiba gave a statement to the police shortly after Norman Makgopa was arrested. She said nothing about the alibi that she later gave him in her evidence before me. When pressed on this in cross-examination, Ms. Modiba said that she did not mention the alibi because she was not asked about it.

58 In my view, however, it is inconceivable that Ms. Modiba would not immediately have told the police that Norman Makgopa was at home with her when it was alleged that he was at the sports ground burning Mr. Rampya to death. Even if I am wrong in that respect, I cannot imagine why her statement would not have been supplemented at the earliest possible opportunity once she realised that she could give her husband an alibi that the police did not ask her about. Ms. Modiba gave her statement to the police on 13 October 2020. The trial proceeded before me almost a year and a half later. I cannot accept that, in all that time, Ms. Modiba would have sat on plainly exculpatory evidence, patiently waiting to reveal that evidence at trial. The reason why the alibi was not volunteered earlier is because it was not true.

59 In the circumstances, therefore, I reject Ms. Modiba's evidence. It is not reasonably possibly true.

60 In respect of Ms. Motena, the situation is worse. Ms. Motena's evidence was not put to any of the State's witnesses. Ms. Motena was careful to say as little as possible while still seeking to suggest that Mr. Pasha was with her for almost all of the evening of 8 October 2020 from 8pm. Her UNISA assignment was used as an excuse to explain why she did not have any interest in a man

being beaten by a large crowd on the street outside her house, and to explain why she was hazy on the details of who visited Mr. Pasha, and who he visited when he left for a short while after 8pm.

- 61 There also remains the question of why Ms. Motena would neglect to reveal her husband's alibi until the penultimate day of her husband's trial. The only reasonable explanation is that the alibi is false. It was concocted at the eleventh hour to exculpate her husband, and to attempt to give some substance to the evidence he improvised when he testified in his own defence.
- 62 Accordingly, I reject Ms. Motena's evidence. It is not reasonably possibly true.
- 63 Mr. Mavata declined to make anything of Mr. Pasha's attempts to taint Ms. Malema's evidence with bias. That was a wise decision. Mr. Pasha's last-minute and wholly incredible attempt to do so only served to underscore just how damaging Ms. Malema's evidence was to his case.
- 64 Finally, there is Mr. Sekokotla's evidence. The problem with that evidence is that it does nothing to exclude the possibility that Mr. Pasha participated in Mr. Rampya's murder, and was back at home in time to answer the door to Mr. Sekokotla at 9pm. Mr. Sekokotla testified that the fire at the sports field was already large enough, at 8pm, to be seen through a crowd of 40 to 50 people from 35 metres away. At that point, Mr. Rampya must already have been mortally injured or dead. But Mr. Sekokotla only saw Mr. Pasha at home an hour later. Accordingly, I have no reason to disbelieve Mr. Sekokotla's evidence, but it simply does not exculpate Mr. Pasha.

65 Ultimately, I am left with the evidence of Ms. Malema, which was corroborated by Mr. Malatji in the critical respects necessary. I accept that evidence. As against that evidence, I have little more than bare and uncreditworthy denials from the three remaining accused men. Tumelo Makgopa was a central figure in Mr. Rampya's initial detention, but says that he spontaneously withdrew from the crowd that then carried on assaulting Mr. Rampya, and that eventually killed him. Norman Makgopa came home to find that someone had tried to burgle his house, but demonstrated a remarkable lack of curiosity about the details of the event. He carried on watching television and went to bed while the man responsible was being burned to death a short distance away. Mr. Pasha was present at the scene of Mr. Rampya's assault, but then spontaneously withdrew. His explanation – that he had to go and repay a debt to Mr. Mohlala – was never confirmed by Mr. Mohlala himself.

66 I reject the evidence given by each of these men as not reasonably possibly true. I am satisfied beyond reasonable doubt that Norman Makgopa, Tumelo Makgopa and Dennis Pasha, acting in common purpose with each other and with others in the crowd, detained, assaulted and killed Mr. Rampya on 8 October 2020. Tumelo Makgopa and Mr. Pasha participated from the outset. They detained and assaulted Mr. Rampya on the street outside the Makgopas' house, before dragging him to the sports field to be killed. I am satisfied that Norman Makgopa joined them at the sports field, or shortly before the crowd reached the field. All three men prevented Mr. Rampya's escape, kicked Mr. Rampya when he was on the ground, and held him down under the mattress long enough to prevent him from escaping the fire that eventually killed him.

Verdicts

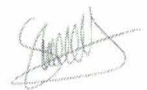
67 Accordingly, for the sake of completeness, I record that accused number 4, Potego Mohlala, is NOT GUILTY of the kidnapping and premeditated murder of Pitso Mamaropeng Rampya, and was discharged from prosecution under section 174 of the Act on 3 March 2022.

68 In respect of the other accused, I have reached the following verdicts –

68.1 I find accused number one, Norman Makgopa, GUILTY of the kidnapping and premeditated murder of Pitso Mamaropeng Rampya.

68.2 I find accused number two, Tumelo Makgopa, GUILTY of the kidnapping and premeditated murder of Pitso Mamaropeng Rampya.

68.3 I find accused number 3, Dennis Pasha, GUILTY of the kidnapping and premeditated murder of Pitso Mamaropeng Rampya.



S D J WILSON
Acting Judge of the High Court

HEARD ON: 28 February, 1, 2, 3, 7, 8, 9, 11 and 21 March 2022

DECIDED ON: 4 April 2022

For the State: SK Mthiyane
Instructed by National Prosecuting Authority

For the First Accused: Mr. Pakula
Name of instructing attorney not supplied

For the Second and Third
Accused:

A Mavata
Instructed by Legal Aid SA

For the Fourth Accused:

Mr. Robertson
Name of instructing attorney not supplied