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**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NO: CC50/2020

DATE: 11-04-2025

(1) REPORTABLE: YES / **NO**.

(2) OF INTEREST TO OTHER JUDGES: YES / **NO**.

(3) REVISED.

DATE: 11/04/2025

SIGNATURE

In the matter between

THE STATE

and

MICHAEL IFEANI AMOBI

Accused 1

JOHN OLUCYUKWU ANISIOBI

Accused 2

ONYECKACCHI OKORO

Accused 3

UCHI OBI

Accused 4

TANIA CLAUDETTE POOLE

Accused 5

FRANIQUE ADIGO

Accused 6

UWAKWE UCHE

Accused 7

JUDGMENT

MOSOPA, J:

1. At the end of the prosecution's case, application for the discharge in respect of all counts that the accused are arraigned on, is made. All the applicants are legally represented in these proceedings.

2. The accused are arraigned on a number of charges which includes amongst others, contravention of the provisions of section 4(1) of the Prevention and Combatting of Trafficking in Persons Act 7 of 2013 read with the provisions of section 51(1) of Part 1 schedule 2 of Act 105 of 1997, assault common, rape, contravention of section 5(B) of the Drug and Drug Trafficking Act 140 of 1992, kidnapping, assault with intend to do grievous bodily harm, fraud and the contravention of the Immigration Act 130 of 2002. Accused pleaded not guilty to the charges proffered against them.

3. A discharge at the end of the prosecution's case is governed by the provisions of section 174 of Act 51 of 1977, which makes the following provision:

“[174] 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.”

4. The Supreme Court of Appeal in ***S v Lubaxa 2002 (2) All SA 107 (A)*** dealt exclusively with what has to be considered in the determination of section 174 applications, and the following was stated at paragraph 9:

"The refusal to discharge an accused at the close of the prosecution's case entails the exercise of a discretion and cannot be the subject of an appeal. The question that is raised in this appeal against the conviction, however, is whether section 35(3) of the Constitution, which guarantees to every accused person the right to a fair trial, has removed the discretion. If it has, and the trial court was bound as a matter of law to discharge the appellant in the interests of a fair trial, then the failure to do so would amount to an irregularity which may vitiate the conviction."

Paragraph 11:

"If, in the opinion of the trial court, there is evidence upon which the accused might reasonably be convicted, its duty is straightforward - the accused may not be discharged, and the trial must continue to its end. It is when the trial court is of the opinion that there is no evidence upon which the accused might reasonably be convicted that the difficulty arises. The section purports then to give the trial court a discretion - it may return a verdict of not guilty and discharge the accused there and then; or it may refuse to discharge the accused thereby placing him on his defence."

Paragraph 14:

"The criticism of *Shuping's* case relates to the second leg of the enquiry, which permits an accused person to be placed on his defence, even when there is no case to answer, merely in the expectation that "the defence evidence" might supplement the prosecution's case. To place the accused on his defence in those circumstances has usually been said to conflict with the presumption of innocence (which is a concomitant of the burden of proof: per Kentridge J in *S v Zuma* [1995] ZACC 1; 1995 (2) SA 642 (CC) at par 33), or to infringe the accused's right of silence and his freedom to refrain from testifying (e.g. *S v Mathebula*, *supra*, at 35c; Schwikkard, at 129; Schmidt, at 95)."

Paragraph 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 for 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 upon his self-incriminatory evidence."

Paragraph 19:

" The right to be discharged at that stage of the trial does not necessarily arise, in my view, from considerations relating to the burden of proof (or its concomitant, the presumption of innocence) or the right of silence or the right not to testify, but arguably from a consideration that is of more general application. Clearly a person ought not to be prosecuted in the absence of a minimum of evidence upon which he might be convicted, merely in the expectation that at some stage he might incriminate himself. That is recognised by the common law principle that there should be "reasonable and probable" cause to believe that the accused is guilty of an offence before a prosecution is initiated (*Beckenstrater v Rottcher and Theunissen* 1955(1) SA 129 (A) at 135C-E), and the constitutional protection afforded to dignity and personal freedom (s 10 and s 12) seems to reinforce it. It ought to follow that if a prosecution is not to be commenced without that minimum of evidence, so too should it cease when the evidence finally falls below that threshold. That will pre-eminently be so where the prosecution has exhausted the evidence and a conviction is no longer possible except by self-incrimination. A fair trial, in my view, would at that stage be stopped, for it threatens thereafter to infringe other constitutional rights protected by s 10 and s 12."

5. What is central to the applications of this nature is that there must be evidence that the accused has committed the offence and where there is no evidence that the accused committed the offence, a verdict of not guilty must be returned. The words "no evidence" in the section have been interpreted to mean, no evidence upon which a reasonable man acting carefully may convict (see the matter of *S v Agliotti* 2011 (2) SACR 437 (GSJ) at 257). A statement by the accused's legal

representative on what the accused would say if called upon to testify does not amount to evidence as intended by section 174 (see the matter of *S v Phillips and Others*, WC case number A70/22, 15 September 2022, (unreported)).

6. In the matter like *in casu*, where the accused are arraigned on multiple charges, the Court may discharge the accused on one or more of the charges, if there is no evidence on the relevant count upon which the Court may convict (see the matter *S v Manekwane* 1996 (2) SACR 264 (O)).

7. The issue pertaining to the credibility of witnesses in a criminal trial, is of critical importance because it mainly focuses on the reliability of the witness' evidence and their truthfulness. This topic has been a subject of conflicting judgments by various courts in determining applications brought under section 174 of Act 51 of 1977. In *S v Mpetha and Others* 1983 (4) SA 262 (C) at 265 paragraphs D to G Williamson J held that the credibility would only play a limited role and the evidence ought to be ignored only if it is of poor quality that no reasonable person could possibly accept it (see the matter of *S v Agliotti*, *supra*).

8. In *S v Dewani* 2014 ZAWCHC 188, December 2014, at paragraph 15 the following was stated:

"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."

DISCUSSION

9. In argument, it was contended by the counsel representing the accused, a fact that was conceded to by the state, that the accused ought to be discharged in all charges where the state did not lead evidence. It is as a result of this concession by the prosecution that the accused will be discharged in all the counts that the state did not lead evidence.

10. The basis for the discharge is based, on the contention that the state led the evidence of the poor quality against the accused in the remainder of the charges which cannot be ignored and the accused ought to be discharged on those charges.

11. In determining the applications, I will summarise the evidence in respect of the remainder of the counts and group the accused in terms of how they were indicted. The summary will not be per se, as how evidence was led, but on the sequence of charges.

Count 7, 8 and 9 wherein accused 1 and accused 2 are indicted

12. The complainant in these counts is L[...] M[...] who in 2011 went to live with her sister in Vereeniging coming from Tembisa and she was approximately 20 years old. The purpose of her coming to Vereeniging was for the fact that she was informed by her father that she has an elder sister there. She did not stay long at her sister's place, and she went to stay in Kempton Park. She then met P[...], A[...] and N[...] at the club and they ended up giving her a place to stay. They actually stayed at P[...]s boyfriend's place who is a Nigerian national and she cannot remember his name, but there was a South African male person who they also stayed with at his place in N[...] R[...] Street, Wandile who was also P[...]s boyfriend as they had to leave P[...]s Nigerian boyfriend's place because the conditions there were not good, also in Kempton Park.

13. She also left that place, and she did not have a place to stay and that is when she started to conduct a business of sex work in approximately the year 2013 or 2014. She also stayed with her white boyfriend known as JP, who she met at a pub

in Kempton Park. She was using a drug called “CAT” when she stayed with JP. She knew that JP was buying CAT from a person known as John Speaker. She knew John Speaker from Kempton Park and also knew ladies who were doing prostitution for him. After parting ways with JP, she stayed at various places in Kempton Park until A[...], her friend, took her to Benoni to a person called China and she stayed there doing sex work. At China's place she was using a drug called “Rock”.

14. There was a time when she was sick and went home, but when she felt better, she returned back to China. There was a time when she was in the company of two other ladies, one known as Ashani and they asked John Speaker to take them to Kempton Park, who later told them that he will take them to his friend called Ebuka. She worked for Ebuka, she would go out and do sex work and when she returns, she would give money to Ebuka. At a later stage, she went back to Benoni but stayed with another Nigerian known as Jay Jay because Ebuka was not treating her well.

15. She then went to Escape to a flat in Pretoria, Sunnyside. The circumstances that led her to be with Escape is that there is a certain Nigerian who begged her to leave with Escape and Escape promised her a good life if she lives with him. The agreement with Escape was that she will do sex work and give money to Escape who will then provide her with drugs (Rock). She stayed with Escape for approximately two months when she was rescued by the police from that flat. When she was rescued by the police, Escape was not there as he left in the morning saying that he was going to Kempton Park to see Speaker. He only arrived when the police were already there. She consented to sexual intercourse with Escape as she did not have a choice.

16. The witness was testifying from the intermediary room and was afforded an opportunity to enter the courtroom and point out the people she was testifying about and pointed out accused 2 as the person she referred to as “Speaker” and accused 1 as “Escape”. In cross-examination it became plain that the witness was forgetful and attributed that to the motor vehicle collision she was involved in. However, after hospital records were obtained it appeared that the witness did not suffer any head injury. The witness was extensively cross-examined by counsel representing accused 1 and accused 2.

Counts 14, 15 and 16 which relates to accused 1, 3, 4, 5, 6, 7 and 8.

17. The complainant in these counts was J[...] H[...] M[...] who also testified from the intermediary room through the CCTV. In 2009 she was in Blue Room Tavern where she was consuming alcohol with a lady who found them there, the next thing she found herself at Jaspit flats and she was in the company of Thato. When she woke up, she saw Nigerians and some ladies who were preparing themselves. They were given something to smoke, and they were forced to smoke it, which was a drug called "Crack". She was given this drug by Ikechukwu. After smoking they will be sent to the street to do sex work.

18. It was her first time to smoke crack, and she really felt good, but before that she was not smoking any other drug. Ikechukwu and Onyeka are the ones who set the price for their sex work at R50 and R100. They would then give the money to Ike who would then give them Crack. After doing sex work, Ike would force her to have sexual intercourse with him, but she did not consent, but she wanted to smoke and he was forcing her. She stayed with Ike for approximately 12 years, she left after the trauma she experienced.

19. There was a time when she was taken with two other ladies to Onyeka's room, and they smoked drugs with a certain radio presenter. They smoked the whole night into the day with the radio presenter not eating. Onyeka was in possession of the radio presenter's bank card. She later realised that the radio presenter died, and she was scared, and they were screaming. Onyeka and Ike told them not to tell anyone of the incident. She told Onyeka that she wanted to go home and he told her that if she tells any person about the incident, he knows where she stays and he will come and kill her.

20. When she returned to Pretoria, she went to live with Ike again, after meeting with him in Sunnyside. Ike promised not to send her again to the street to do sex work and all the things that he has done to her in the past, but will keep on supplying her with drugs, and as she was addicted to drugs, she agreed. She was pregnant at

that stage and Ike sold her to CM Punk. CM Punk told her that she must go to the street to make money as she was sold for a lot of money to him by Ike.

21. She would do sex work and CM Punk would take the money she generated out of sex work, and he would give her drugs. There was a day when CM Punk wanted to have sexual intercourse with her, but she refused, and CM Punk forced himself on her at a basement at Tamboti Flats. After that, he gave her drugs, and she smoked right there. The following day, she then left and went to the safe house. She stayed there until she gave birth to her child and thereafter went home. When she returned to Pretoria, she was taken by a coloured lady who belonged to Franque to Phiri Motel. Franque gave her drugs there, specifically crack. Franque told her that he was not residing at Phiri Motel but Jaspit, he will give her to his friend called Sparks.

22. She cannot remember all the names of the ladies she was with at Phiri Motel, but she remembers Sankelisiwe, Sangwe, Zama, Ruth and Pookie. Sparks was organising clients for them, through the internet and they would give him money and he would give them drugs. After she was kicked out of Phiri Motel together with the other ladies by the landlord, they stayed in the two vehicles that belonged to Sparks, parked at Phiri Motel. From Phiri Motel they travelled with another Nigerian to a certain bachelor flat which she cannot remember its name. Escape also arrived at that flat to deliver the containers that they were using to smoke drugs with. She knew Escape before, but she was seeing him for the first time at that flat on that day.

23. In 2017 she stayed and worked for Uche and he was giving her drugs. Uche found her in the streets and promised to give her drugs and it was because of her addiction that she followed him. Uche would assault her when she would come back without money by slapping her. This happened on five or six occasions. She pointed out accused 5 as a coloured lady, CM Punk, accused 4, Onyeka, accused 3, Ikechukwu, accused 7, and Franque as seated next to the coloured lady and that Escape has tattoo at the back.

24. In cross-examination, she conceded when asked to identify the accused she testified about, she made a mistake about Franque and Escape, in that she referred

to Franque as Escape and *visa versa*. At that stage, she was already back to the intermediary room where she was testifying from.

Counts 22, 23 and 24 relates to accused 2 and 4

25. The complainant in these counts is S[...] R[...] P[...], who testified that on 13 July 2019 left her home in Tembisa after the death of her father. She went to Emperors Place to do sex work. At a club called News Café, she met with John Speaker who asked her whether she is doing sex work. John Speaker made a proposal to her, that she can supply her with accommodation and whatever she generates out of sex work, they can equally share that. She agreed as she was already defaulting on her rental payments. When they arrived at John Speaker's place, they had sexual intercourse in N[...] R[...], Kempton Park. Every time John Speaker left the room, he would lock her inside that room.

26. When John Speaker wanted to give her drugs, she told him that she had history with drugs and it is not easy to quit, but John Speaker threatened to shoot her if she did not take the drugs. Busi also taught her how to smoke rock cocaine but also told her how abusive John Speaker was. After smoking, John Speaker told her that it would make the work easier for her. He took her to the street and showed her a corner where she must stand for sex work purposes. John Speaker would set up the prices that must be paid by the clients. After receiving the money, John Speaker would take the money from her.

27. There was a time when she received money from her clients, in the amount of R200 that she concealed in her breasts, but John Speaker assaulted her and searched her and he took that money away from her. She tried to open an assault case against John Speaker but was not assisted by the Kempton Park Police at the Police Station. She told John Speaker that she was moving out of his place and went to stay in a next street of where John Speaker was staying and stayed with Ulcer who is also known as Nelson. Nelson was arrested and she was looking for another place to stay, she met with Cindy who suggested that she move to Pretoria, where she met with Sparks and was taken to Phiri Motel. That was when she realised that she was sold, and Cindy was the agent, she was told by Nontombi.

After they were kicked out of Phiri Motel they slept in Sparks' vehicles which were parked there. They were then taken to a flat in Pretorius Street in Arcadia. S[...], J[...], M[...], M[...], S[...] and P[...] are some of the ladies she moved with to P[...] Street.

28. She stayed there until she was rescued by the police and was thereafter taken to a safe house. She was then taken to her home in Tembisa. She ended up in Kempton Park wherein she indulged excessively in alcohol and ended up being at John Speakers' place. She eventually ended up being admitted at hospital in Kempton Park. After being discharged from hospital she met a Nigerian gentleman known as China who then took her to a flat in Pretoria known as Cameron Court. China gave her drugs, and she returned to sex work. She started stealing drugs from China which was followed by assaults on her and China decided to take her to his brother, CM Punk. CM Punk gave her drugs and showed her a spot where she must do sex work from.

29. CM Punk was having sexual intercourse with her against her will and did that on more than three occasions. She also stole drugs from him, and he would also assault her. CM Punk after realising that the police were looking after them, he phoned his other brother, Ongus, who stays in Kempton Park to come and fetch her. When she received money from clients, CM Punk would take the money from her. She identified the following people in court, accused 1, Escape, accused 2, John Speaker, accused 4, CM Punk, she knows accused 6, she knows accused 1 as a friend of Sparks. Accused 6 is the one who brought J[...] to Sparks at Phiri Motel and his name is Franque.

Counts 25 and 26 relates to accused 2, 5, 7 and 8.

30. The complainant in these counts is L[...] H[...] M[...] and she testified that she did sex work on the corner of Francis Baard and Wessels Streets, Pretoria in 2019. She was 16 years old at that stage. As she was in the streets, she was approached by a client who introduced himself as Speaker and told her that he was going to deliver documents at Sunnyside. She travelled with Speaker in his vehicle but

instead of taking the route to Sunnyside, he drove to Kempton Park. Speaker and her agreed on a payment of R300 for her services.

31. Speaker drove with her to a certain house in Kempton Park and they found other ladies there. Speaker gave her Crack or Cocaine to smoke. After smoking she was told to do sex work. Speaker gave Bobby an instruction to follow her around. John who she said is the same person as Speaker, gave her the list of prices for her services. After receiving the money, she was not allowed to keep the money for herself and would give it to Speaker in exchange for drugs. After the arrest of Bobby who was working for Speaker she was given a responsibility to oversee the drugs and she would provide the other ladies with drugs and alcohol which was also sold at that place.

32. There was a stage when she stole the drugs money from Speaker and went to the night club and drank alcohol the whole night with that money and when she returned where she was residing with Speaker she was only left with R50 and Speaker assaulted her. He in addition to hands used a stick to assault her. She was then taken to a safe house and met with a lady called Jessica who was a dealer for Franque. She knew Franque as the day she met Speaker she had a quarrel with Franque and she left with him.

33. Franque is the first Nigerian she stayed with when she started smoking drugs. She stayed with Franque at Jaspit. Her friend Mahlatsi knew Franque and she is the one who introduced her to Franque. Franque gave them a lot of Cocaine and they smoked it. She then went to stay with Oke and did sex work as well. After receiving money from clients, she would give that to Oke. Franque traced her to where she was doing sex work and took her to his flat and gave Oke all the clothing items he provided her with. A client would give the money upfront for her services and Franque would take that money in exchange for drugs and she was not allowed to keep any money for herself. She stayed with Franque for 9 months.

34. She left the safe house in the company of Jessica who took her to Ike. When Franque left Jaspit, he went to stay in Montana with his girlfriend, Rose. She also stayed at Montana with Franque, Rose and Tanya. Franque introduced her to the

internet and her photos were loaded on the escort agents' profiles and internet, but she only stayed a week there and left. She had a smoking client whilst at Franque's place, Franque was the one who set up the price for her services and he received the payment. In court she identified accused 2 as John Speaker, accused 8, Ike, accused 6, Franque and Tanya, accused 5.

Counts 31, 32, 33, 34, 35 and 36, it relates to accused 1, 3, 4 and 8

35. The complainant in these counts is A[...] E[...] P[...] who grew up in Parys in the Free State. She was raised by her mother who was doing sex work and excessively consuming alcohol. At the age of four she observed her mother sleeping with men at their home. At the age of 14 years and after the death of her mother she stayed with her disabled uncle and started to attend night clubs chasing after boyfriends and her uncle end up chasing her away from the house. She lived at Sasolburg with friends and that is when she started doing sex work and working for herself. In 2010 she went to stay in Vereeniging and continued doing sex work. She then worked for Prince for 8 months. Prince paid Uche some money and after that payment he took her to Pretoria at Soutpans Road 295 and it was around August 2012.

36. At that stage, she was using a street name of Lerato. Uche also known as Papanuko, when they arrived there, he offered her alcohol and drugs and gave her the rules of engagement, as to how are they going to work. She worked for Papanuko for a period of approximately three to four months. There was a stage when she went with client to Cameron Court and the client went to Ike's room to buy drugs, also referred to him is Ikechukwu. It happened that her client left his wallet in his vehicle and he went to collect it, that is when Ike asked for her name and contact numbers which she gave to Ike. Ike phoned her and she went there on the first occasion, and they did business and he paid her R100. On the second occasion Ike offered her alcohol, he wanted to do business with her, but she requested money first, but Ike had sexual intercourse with her without her consent.

37. She also met with Escape, Michael Ifeanyi Amobi, and he did business with her and they exchanged numbers. In addition to payment for her services, Escape also

provided her with drugs, and they met at Cameron Court. She then moved with Escape in January the following year after leaving Papanuko. Escape was physically abusing her, and she was staying with him in the same room. She stayed with Escape for a period of approximately 6 years. She would do sex work and after that give money to Escape who would then provide her with drugs.

38. There was a stage when Escape stabbed her with a glass on her back, which broke in the process. He chopped chillies into pieces and put them into her eyes. The reason for the assault was that she did not bring money that Escape was expecting. He assaulted her with open hands, television cord and also inserted the pieces of chillies into her private part. He also put her in a bathtub filled with water and poured a black substance. After that he sexually penetrated her without her consent after, he made her to lie on her back. She wanted to leave, but Escape threatened her not to leave.

39. There was also a day after working for the whole night, she woke up around 09:00 in the morning and she was alone. She took a pot and prepared noodles to eat, but decided to sleep for some time and when she woke up smoke was all over the room. Escape arrived and assaulted her with open hands and made her to eat the burnt noodles, but she refused. Escape threw her to the floor and stabbed her with a screwdriver on her right knee, and she ended up eating the burnt noodles as instructed. He assaulted her with a pot on her mouth and the head, and she ended up passing out. She sustained an open wound on her mouth, and she also soiled herself.

40. There was also an incident in November 2014 when she together with Lerato, who they also referred to as Small, stole Escape's drugs. Escape assaulted her with open hands and after that tied her hands and legs with an elastic belt. He brought a screwdriver and rubbed it on where he stabbed her and she bled. She cried loudly and he covered her mouth with a scarf and also poured her with boiling water from a kettle. Also, on this occasion he assaulted her with an electrical cord. She never received any medical treatment for the injuries she sustained.

41. In 2015 Escape made her to commit abortion when she was 5 months pregnant. She was taken by Escape and Wako to the abortion clinic. Escape paid an amount of R1 800 at the clinic, but he did not tell her that it was for abortion but for consultation, she was given tablets and after three hours she started experiencing pains and then was taken to another room. Three weeks after the abortion she was assaulted with a plank by Escape. She then met CM Punk who asked her to come and stay with him and gave her clothes to change. She went out for sex work, but met with Escape who dragged her to his vehicle and locked her inside the boot of his car. At the flat he assaulted her with a plank, she fell down, and he wanted to stab her on the neck with a screwdriver, tore her clothes, he then inserted his penis into her vagina and also the anus. He also inserted a screwdriver in her anus and that tore her flesh. She was working for CM Punk as well.

42. Ms Emma Van Der Walt took photographs of her scars following the injuries she sustained, which were later confirmed by Ms P[...]. Ms Van Der Walt also testified and confirmed that she is the one who took pictures which were later in the proceedings admitted into evidence. Ms P[...] was called into the courtroom to identify the people she testified about and she identified CM Punk as accused 4, Ike Ikechukuchu, accused 8, Onyeka accused 3 and testified that in 2018 Onyeka called her for a client at his place and the client was a smoking client. Onyeka wanted the portion of the money that was paid by the client to her, which was over R1000 and she refused. That is when he assaulted her. He took the entire money from her and gave her R200 out of it. All the people she identified were not employed.

Count 38 relates to accused 3

43. Mr Kuberndran Moodley presented affidavit in terms of section 212(4)(a)(vi) detailing that on 23 December 2019, he received a request to investigate with the purpose of authenticating a South African asylum seeker temporary permit 2[...] bearing the names of accused 3 and his date of birth and found that the document presented with is not an authentic document. Further a section 212 affidavit by Ms Dikeledi Mulaudzi, from the Department of Home affairs, that accused 3's permit was valid until 28 January 2016 and was also admitted into evidence.

Count 39 relates to accused 6

44. Section 212(1) affidavit was presented by Mr Kenneth Ndou, employed at the Home Affairs. He received a request to verify the passport of accused 6, number A[...] and the date of birth and found that accused 6 is an illegal foreigner in the country in contravention of section 49(1)(a) of Act 13 2002. In addition to that accused 6 made admissions in terms of the provisions of section 220 of Act 51 1977 that his temporary residence permit expired on 6 February 2013 and that he remained in the country without any valid permit and/or visa that authorises him to do so.

Count 40 relates to accused 7

45. The section 212 affidavit was obtained from Mr MC Ramaube from the Department of Home Affairs that accused 7 with file number PTANGA003860512, that his asylum expired on 28 May 2020.

Count 42 relates to accused 8

46. The section 212 affidavit was obtained from Mr MC Ramaube from the Department of Home Affairs relating to accused 8 that there is no record that he did apply for asylum in the country.

47. The state is relying on the doctrine of common purpose to convict the accused, Hence the fact that count 37 is crafted in a manner in which it was presented. There is no evidence that there was a stage when all the accused were working together in furtherance of common purpose. Some of the counts that the accused are arraigned with, they are going to be discharged at the end of the prosecution's case and are included in the count 37. The prosecutor, Ms Roos, does not call for accused 6 to be put in the defence for that count, mainly on a basis that there is no evidence led, alternately, there is no evidence implicating her of receiving money for sex work from the complainants. *Prima facie* there is evidence that the rest of the accused will take money from the complainants that they were working for, after doing sex works as they were not allowed to keep such money.

48. Then, counts 14, 15, 16, 22, 23 and 24, which relates to J[...] H[...] M[...] and R[...] P[...] as complainants. Accused 1 who was referred to as Escape, his name is mentioned, but there is no evidence implicating him to the commission of the offences and need not be put to his defence.

49. J[...] M[...] mentioned accused 5 as the person who took her to Franque, accused 6. At Franque's place, J[...] did sex work and Franque would allegedly take money from her and give her drugs. She is also mentioned by L[...] M[...] who said that she was a girlfriend of accused 6 and confirms that J[...] was brought there and worked for Franque. She was also introduced to the internet where her photos were loaded and also that of accused 5. There is *prima facie* evidence that needs accused 5 to answer and must be put to her defence.

50. L[...] M[...] implicates accused 1 and accused 2. From Benoni she was taken to accused where she was allegedly fed with drugs and doing sex work and accused would take the money. She has testified that while she was still in a relationship with JP, they bought drugs from accused 2 and that is how she happened to know accused 2 from Kempton Park.

51. Accused 5 was in a relationship with accused 6, and there were some of the complainants in this matter who stayed with them at Jaspit and also at Oxford Heights in Montana. The drugs were supplied in the presence of accused 5 by accused 6 to the complainants and some of the complainants were doing sex work in the apartment shared by accused 5 and accused 6.

52. Accused 6 in count 24 is arraigned with an assault charge and allegations made are that accused 6 assaulted L[...] M [...], threatened to throw acid over her body and to kill her if she leaves him and/or stop working as a drug dealer for him and/or not complying with his demands. L[...] M[...] in her testimony never mentioned accused 6 threatening to throw her with acid but mentioned that accused 6 assaulted her with open hands. It is for this evidence that he must be put into his defence.

53. Ms E[...] P[...] stayed the longest time with accused 1 and mentioned how she was physically abused by accused 1. She also mentioned doing sex work for accused 4. She was also allegedly taken by accused 1 together with Wako to the abortion clinic, but it is accused 1 who paid the abortion fee, and she ended up losing the baby that she was carrying. She also mentioned working for accused 3 after meeting him next to BP filling station. She also mentioned doing business with accused 8, but on a second occasion accused 8 allegedly raped her and that on its own calls for an answer on the accused.

54. All the section 212 affidavits presented pertaining to the statuses of accused 3, 6, 7 and 8 in the country, were admitted into evidence.

55. It is, because of the above that the following order is made.

Accused 1, you are discharged on the following counts;

Count 1,2,3,4,5,6,10,11,12,13,16,17,18,19,20,21,22,23,24,25,26,27,28,29 and 30;

Accused 1 is put to his defence in the following counts;

Count 7,8,9,14,15,31,32,33,34,35,36 and 37;

Accused 2 you are discharged on the following counts,

Count 1,2,3,4,5,6,7,8,13,14,15,16,17,18,19,20,21,27,28,29,30,31,32,33,34,35 and 36;

Accused 2 is put to his defence in the following counts. Count 9,22,23,24,25,26 and 37;

Accused 3 is discharge on the following counts;

Count 1,2,3,4,5,6,7,8,9,10,11,12,13,16,17,18,19,20,21,22,23,24,25,26,27,28,29 and 30;

Accused 3 is put to his defence on the following counts, count 14,15,37 and 38;

Accused 4 is discharged on the following counts;

Count 1,2,3,4,5,6,7,8,9,10,11,12,13,17,18,19,20,21,25,26,27,28,29 and 30;

Accused 4 is put to his defence on the following counts, count 14,15,16,22,23,24 and 37;

Accused 5 is discharged on the following counts.

Count1,2,3,4,5,6,7,8,9,10,11,12,13,16,17,18,19,20,21,22,23,24,27,28,29 and 30

Accused 5 is put to her defence in the following counts. Count14,15,25 and 26;

Accused 6 is discharged on the following counts,

count1,2,3,4,5,6,7,8,9,10,11,12,13,16,17,18,19,20,21,22,23,24,27,28,29 and 30

Accused 6 you are put to your defence on the following counts,
Counts 14,15,25,26,37 and 39;

Accused 7 is discharged on the following counts,

count1,2,3,4,5,6,7,8,9,10,11,12,13,17,18,19,20,21,22,23,24,25,26,27,28,29,30 and 41;

Accused 7 you are put to your defence on the following counts,
count 14,15,16,37 and 40;

Accused 8 is discharged on the following counts,

count1,2,3,4,5,6,7,8,9,10,11,12,13,17,18,19,20,21,22,23,24,27,28,29 and 30;

You are put to your defence on the following counts, 14,15,16,25,26,37 and 42.

**MOSOPA J
JUDGE OF THE HIGH COURT**

DATE: 11/04/2025