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REPUBLIC OF SOUTH AFRICA



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

Case Number: A347/2023

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED: NO

DATE: 10/06/2025

In the matters between: -

PHILLIP BONGISWANE SKHOSANA

APPELLANT

And

STATE

RESPONDENT

JUDGMENT

KEKANA AJ

INTRODUCTION

[1] The appellant was charged in the Regional Court held at Ekangala with the following charges:

1.1 Count 1: kidnapping

1.2 Count 2: kidnapping

1.3 Count 3: Contravention of section 120(6)(b) of the Fire Arms Control Act, Act 60 of 2000 – Pointing of a Fire Arm;

1.4 Count 4: Contravention of Section 5(1) of the Sexual Offences Act, Act 32 of 2007-sexual assault

1.5 Count 5: Contravention of Section 5(1) of the Sexual Offences Act, -sexual assault

1.6 Count 6: Contravention of Section 3 of the Sexual Offences Act: Act 32 of 2007- Rape

1.7 Count 7: Contravention of Section 3 of the Sexual Offences Act, Act 32 of 2007 - Rape

1.8 Count 8: Contravention of Section 3 of the Sexual Offences Act, Act 32 of 2007 - Rape

1.9 Count 9: Contravention of Section 3 of the Sexual Offences Act, Act 32 of 2007 - Rape

[2] The Appellant was legally represented, and he pleaded not guilty to the charges. The Appellant was subsequently convicted on 28th June 2023 on all the counts. On 9th June 2021 the learned magistrate proceeded to sentence the Appellant as follows:

2.1 Count 1 and 2: Counts taken together for sentence- 2 years' imprisonment;

2.2 Count 3: 1 year's imprisonment;

2.3 Count 4 and 5: Counts taken together for sentence -2 years' imprisonment;

2.4 Count 6: Life imprisonment;

2.5 Count 7: Life imprisonment;

2.6 Count 8: Life imprisonment;

2.7 Count 9: Life imprisonment.

[3] The appellant was sentenced to an effective life imprisonment in the Regional Court and therefore has an automatic right to appeal the convictions and sentences, derived from section 309(1)(a) of Act 51 of 1977.

GROUND OF APPEAL

[4] It was submitted that the trial court misdirected itself by:

- 4.1 Finding that the State proved their case beyond reasonable doubt;
- 4.2 Finding that the witnesses could be relied upon to convict the Appellant;
- 4.3 Not properly applying the cautionary rules applicable to single witnesses nor adding enough weight to the contradictions and improbabilities in the State's case;
- 4.4 imposing a sentence in respect to the counts which is shockingly harsh and inappropriate having light to the circumstances of the case;
- 4.5 not ordering the sentences run concurrently;
- 4.6 not considering the cumulative sentence that was imposed by the court;
- 4.7 not finding that there were substantial and compelling circumstances to deviate from the minimum sentences in terms of the Minimum Sentence Act, Act 105 of 1997;
- 4.8 over-emphasizing the seriousness of the offence and the interest of the society;
- 4.9 failing to consider the prospects of rehabilitation;
- 4.10 taking into account aggravating factors which were not presented to the court through evidence by the State.

BACKGROUND

[5] The appellant met the two complainants for the first time on 25 December 2019. Earlier that day, they had interacted socially. The complainants later alleged that the appellant raped them. The appellant denied the allegations and pleaded not guilty.

[6] During the trial, the State led the evidence of N[...] N[...], Z[...] M[...], Dr Skhosana, and Edward Xolani Nkambule. The appellant testified in his own defence and called Pretty Maponya and Siyabonga Skhosana as witnesses.

COMPLAINANTS' VERSION

[7] The complainants testified that on the 25 December 2019, Pretty Maponya requested the appellant to attend to the complainants, who were en route to her house while she was bathing. Later that day the appellant, the complainants and Pretty spent time together at Makarina , a local tavern, where they sat and drank together. The complainants drank Savanna, the non-alcoholic version of the beverage. Thereafter, Pretty and the complainants returned to Pretty's house.

[8] At approximately 23h00, Pretty requested the complainants to accompany her to her boyfriend, Siyabonga's place. When Siyabonga was not found at his residence, they went to the appellant's place in search of him. The appellant offered them chairs and informed them to wait for Siyabonga. Pretty subsequently left the complainants with the appellant, indicating that he was going to look for Siyabonga and would be back.

[9] After Pretty left, the appellant locked the door and turned up the volume of the music. He approached Z[...], and when she resisted his touch, he drew a knife and instructed both complainants to undress.

[10] The appellant forcefully removed Z[...]’s clothes, kissed and licked Z[...]’s breasts and vagina, and pushed her onto the bed. He then turned to N[...], who had hidden herself in a corner. He dragged her out, kissed her forcefully, touched her breasts, undressed her, and threw her onto the bed.

[11] He retrieved a condom from the wardrobe, put it on, and resumed his assault. When Z[...] resisted, the appellant went to the wardrobe and produced a firearm, threatening them both. Thereafter, he climbed on top of Z[...], touched and kissed her, and inserted his fingers into her vagina. When N[...] attempted to intervene, the appellant overpowered her, pushed her onto the bed, and similarly assaulted her.

[12] N[...] tried to close her legs, at which point the appellant slapped her on the face and pinched her thigh. He then inserted his penis in N[...]’s vagina and had intercourse with her and thereafter inserted his penis in Z[...]’s vagina and had intercourse with Z[...]. When he realised that Z[...] was bleeding, he then moved to N[...] inserted his penis in to her vagina and had intercourse with her again. He had intercourse with both of them more than once. They were both crying. He brought them water to bathe themselves with. A friend of the appellant knocked and ultimately the appellant opened the door.

[13] Appellant walked with the complainants to Makarina in the company of his friend who had come to his room after he was done assaulting them. At Makarina , they encountered Xolani, who subsequently helped them escape from the appellant. Xolani took them to the police station after they told him what had occurred.

[14] Dr Skhosana, who examined both complainants and completed the J88 medical reports, confirmed that the physical injuries observed were consistent with non-consensual, forceful vaginal penetration. In the J88 Dr Skhosana recorded the following injuries: Fresh vaginal bleeding and vaginal tears on both complainants, swollen and tender side of the face, bruises on N[...]’s thigh. He testified that there were no clinical findings of alcohol in both complainants and therefore he did not perform blood tests.

[15] Xolani testified that he approached the complainants because he was interested in one of them. When the appellant found Xolani talking to the complainants, he chased Xolani away. Later, the complainants came to Xolani and asked for help to escape from

the appellant. Xolani helped them escape and took them to the police station using his vehicle.

APPELLANT'S VERSION

[16] The appellant testified and denied raping the complainants. The appellant's version was that after Pretty left the complainants at his house, he informed the complainants that he intended to sleep. He claimed that N[...] woke Z[...], who was asleep on his bed, and he walked them back to Makarina

[17] The appellant testified that he went to buy the complainants six Savannas, when he returned, the appellant found the complainants in the company of Xolani. He handed over the drinks and left the complainants there, asserting that he needed to return home due to correctional supervision conditions, since he was on parole. According to the appellant, it was approximately 19h00 when he left the complainants at Makarina.

[18] When asked why the complainants would falsely accuse him, the appellant alleged a conspiracy orchestrated by his ex-girlfriend, P[...] M[...], who the appellant claimed held a grudge against him for allegedly posting her nude images on social media. The appellant suggested that Xolani conspired with P[...] and Sylvester, P[...]s current boyfriend, to falsely implicate the appellant. The appellant went so far as to suggest that the complainants may have had sex with Xolani. The basis for this suggestion was the observation by Dr Skhosana that the complainants' clothes were 'soily'.

[19] Appellant called Pretty Maponya as a witness. Pretty denied that he sent the appellant to fetch the complainants. She confirmed the appellant's version that she and the complainants drank alcohol. The reason Pretty, the appellant and the complainants left Makarina was because N[...] said she saw her brother at Makarina and wanted to leave. They all went to the appellant's place, where they sat playing music. Z[...] was so drunk that she fell asleep on the appellant's bed. Pretty's boyfriend, Siyabonga came at approximately 20h00 and stayed for thirty minutes. The complainants, the appellant,

Pretty and her boyfriend left the appellant's place together going in different directions. The complainants and the appellant went to Makarina , while Pretty and her boyfriend left together.

[20] Siyabonga testified and confirmed that she found Pretty at the appellant's place, and he spent thirty minutes there before leaving. Siyabonga denied that the appellant and the complainants left the appellant's room with him and Pretty. He stated that when they left the appellant's room, the appellant and the complainants were getting ready to go to Makarina.

ISSUES FOR DETERMINATION

[21] The issues before us are twofold. First, whether the court a quo misdirected itself in finding that the State had proved its case beyond a reasonable doubt. Second, if the conviction is upheld, whether the court a quo erred in its approach to sentencing.

THE LAW

[22] It is trite that an appellate court will not lightly interfere with the factual findings of a trial court unless those findings are tainted by a material misdirection. It is well-established that the State bears the onus of proving the guilt of the accused beyond a reasonable doubt. Conversely, the accused is entitled to an acquittal if there exists a reasonable possibility that the explanation he offered may be true. (see *S v Van der Meyden* 1999 (1) SACR 447 (W); *S v Chabalala* 2003 (1) SACR 134 SCA).

[23] These are not separate and independent tests, but expressions of the same standard viewed from opposite perspectives. To convict, the evidence must establish the guilt of the accused beyond a reasonable doubt, which will be so only if there is at the same time no reasonable possibility that the innocent explanation offered might be true. The two are inseparable, each being the logical corollary of the other. (see *Van der Meyden* at 80H–81B)

[24] In *S v Chabalala* at paragraph 15, the Supreme Court of Appeal approved the approach in *Van der Meyden*, with Heher JA stating:

“The correct approach is to weigh all the elements pointing towards the guilt of the accused against those indicative of his innocence, taking proper account of the inherent strengths and weaknesses, probabilities and improbabilities on both sides. Having done so, the court must decide whether the balance weighs so heavily in favour of the State as to exclude any reasonable doubt as to the accused’s guilt. The result may hinge on a single piece of evidence or a defect in either party’s case (such as failure to call a material witness regarding an identity parade), but this can only be determined retrospectively. The trial court—and counsel—must resist the temptation to fixate on one seemingly obvious aspect without assessing it in the context of the entire evidentiary picture.”

[25] Addressing the concept of “reasonable doubt,” the Appeal Court in *R v Mlambo* 1957 (4) SA 727 A held that:

“There is no obligation on the Crown to close every avenue of escape available to the accused. It is sufficient for the Crown to present evidence that raises such a high degree of probability that the reasonable person, after mature consideration, concludes there is no reasonable doubt of the accused’s guilt. The court must be morally certain of the guilt. The accused’s claim to the benefit of doubt must rest on a reasonable and solid foundation, whether from positive evidence or inferences that are not contradicted or outweighed by the proven facts.”

[26] In *R v Difford* 1937 AD 370 at 373, the court stated:

“It is clear that no onus rests on the accused to convince the court of the truth of any explanation offered. Even if the explanation is improbable, the court may not

convict unless it is satisfied, beyond reasonable doubt, that the explanation is false. If there exists any reasonable possibility that the explanation is true, the accused is entitled to an acquittal.”

[27] Regardless of how the test is framed, it must be satisfied based on a holistic assessment of all the evidence. A court does not consider the evidence implicating the accused in isolation to determine proof beyond a reasonable doubt, nor does it assess the exculpatory evidence in isolation to determine whether it is reasonably possibly true.

[28] In *S v Hadebe & Others 1997 (2) SACR 641 (SCA)* at 645E–F, the court confirmed:

“In the absence of demonstrable and material misdirection by the trial court, its findings of fact are presumed correct and will only be disregarded if the recorded evidence proves them to be wrong.”

THE FINDING OF THE COURT A QUO

[29] In finding the appellant guilty the court a quo considered the evidence of the complainants and found the evidence to prove that the appellant raped the complainants. The court a quo was satisfied that the J88 corroborated the complainants’ allegation of rape. The court rejected the appellant’s version, which it noted to be a bare denial. In particular, the trial court noted the fact that the appellant was left with the complainants.

ANALYSIS OF THE EVIDENCE

[30] The question is whether the guilt of the appellant was proved beyond reasonable doubt. It is clear from the record that there are two conflicting versions of how the events on that day unfolded. The court a quo accepted the version of the complainants and found that their evidence was corroborated by the medical evidence and rejected the evidence of the appellant.

[31] The undisputed evidence is that Pretty, the complainants and the appellant spent time together at the appellant's place, although they differ on the reason they went there. The complainants' evidence that they were slapped, pinched and raped, is corroborated by Dr Skhosana's evidence that the vaginal tears were consistent with forceful penetration. The J88 recorded vaginal tears, tender and swollen side of the face and bruised thigh. The evidence of the complainants is similar in material respects, they corroborated each other regarding how the appellant threatened them with a knife and a firearm.

[32] Z[...] witnessed the appellant rape N[...], while N[...] witnessed the appellant rape Z[...]. N[...]’s evidence in this regard was that she tried to intervene when the appellant was raping Z[...] but the appellant overpowered her and raped her. Z[...]’s evidence was that when the appellant realised that she was bleeding, he turned his attention to N[...] and raped her. The complainants corroborated each other’s testimony. The complainants’ evidence was clear and coherent.

[33] The appellant’s explanation that after Siyabonga and Pretty left his room, he walked the complainants back to Makarina at approximately 19h30, is corroborated by Siyabonga, who stated that when he and Pretty left the appellant’s place, the appellant and the complainants were getting ready to go to Makarina. However, this evidence is contrary to Pretty’s evidence who testified that the appellant and the complainants left the appellant’s room together with her and Siyabonga.

[34] The appellant’s version is that he had no sexual contact with the complainants. The medical evidence confirmed that the complainants had been raped. The fresh vaginal tears, the bleeding, the bruises provided sufficient evidence and enabled Dr Skhosana to conclude that there was clinical evidence of forceful penetration. The tenderness on the side of the faces and the bruised thigh are in line with the evidence of the complainants that the appellant slapped them on the face and further pinched N[...] on

her thigh to force them into submission. The appellant's contention that the rape allegation was a fabrication is meritless.

[35] The following aspects of the appellant's testimony confirm the complainants' evidence that (a) Pretty left them in the company of the appellant in his room; (b) the appellant took the complainants to Makarina after Pretty left; (c) the complainants and the appellant encountered Xolani at Makarina .

[36] Additionally, Xolani corroborated the complainants' version regarding the time the complainants and the appellant encountered Xolani at Makarina. Xolani testified that he encountered the complainants and the appellant at Makarina in the early hours of 26 December 2019 and subsequently took the complainants to the police station. This contradicts the appellant's claim that he left the complainants in the company of Xolani at Makarina at approximately 19h00 on 25 December 2019.

FACTORS ADVANCED BY THE APPELLANT

[37] The appellant raised several issues against the complainant's version: (a) the absence of DNA evidence linking him to the complainants; (b) inconsistencies regarding the presence and location of the firearm (c) the failure by Dr Skhosana to record any signs of alcohol, despite the appellant's claim that the complainants were intoxicated, and alleged inconsistencies in the complainants' testimony regarding the location of the firearm and the sequence of events.

[38] Admittedly DNA evidence is valuable in rape cases however the absence thereof is not fatal to the State's case. The court has the complainants' evidence, together with the J88 and Dr Skhosana's evidence and circumstantial evidence eg, the appellant's evidence that Pretty left the complainants in the appellant's presence at the appellant's room. According to the complainants' evidence, it was after Pretty left that the appellant locked the room and started his assault on the complainants. This evidence is important in the determination of whether the appellant is guilty or not.

[39] Regarding the failure of Dr Skhosana to record any signs of alcohol, Dr Skhosana testified that there was no clinical evidence of alcohol. Pretty's testimony was that Z[...] was so drunk that she fell asleep on the appellant's bed. If Z[...] was that inebriated, wouldn't that have been obvious to Dr Skhosana?

[40] A further issue raised by the appellant is the contradiction regarding where the appellant retrieved the firearm from. According to Z[...], the appellant retrieved a firearm from the drawer, while N[...] testified that the appellant retrieved the firearm from the top of the wardrobe. The contradiction in this regard is immaterial, especially considering their circumstances at the time. They both corroborate each other on the fact that they were threatened with a firearm.

INCONSISTENCIES AND CONTRADICTIONS

[41] Pretty contradicted the appellant; she testified that the appellant, the complainant, Pretty and her boyfriend left together from the appellant's room and parted ways along the way. This contradicted the appellant's testimony that Pretty left the complainants at the appellant's room.

[42] The appellant's version suffered from material inconsistencies. He initially stated that the complainants left Makarina due to N[...]’s brother being present, but under cross-examination, he altered this to say that N[...] recognised a man who was a friend of her brother.

PROBABILITIES

[43] It is improbable that the complainants, having just met the appellant, would falsely accuse him of rape, especially given the cordial manner in which he initially treated them—buying them food and beverages, and offering them hospitality at his home.

[44] The suggestion that the complainants conspired with Xolani and his ex-girlfriend to fabricate the rape allegation is far-fetched. The evidence of rape is corroborated medically, supported by consistent testimony from both complainants and Xolani, and is further strengthened by the inconsistencies and improbabilities in the appellant's version.

DUPLICATION OF CONVICTIONS

[45] The respondent submitted that count 4 and 5 of sexual assaults and count 7 and 8 of rape were 'committed within the framework of single intent'.

[46] Regarding the duplication of punishment, the SCA in *S v BM 2014 (2) SACR (SCA) para 3*, remarked that:

'It has been a rule of practice in our criminal courts since at least 1887 that 'where the accused has committed only one offence in substance, it should not be split up and charged against him in one and the same trial as several offences". The test is whether, taking a common-sense view of matters in the light of fairness to the accused, a single offence or more than one has been committed. The purpose of the rule is to prevent a duplication of convictions on what is essentially a single offence and, consequently, the duplication of punishment.'

[47] The test which was developed by the courts to determine whether a duplication of charges had occurred are: (a) whether the offences were committed with a single intent and were part of one continuous transaction; and (b) whether the offences differed from one another in their elements and whether the same evidence was necessary to prove both offences.

[48] In this matter the appellant was convicted of sexual assault and rape. The sexual assault was committed with an intention to rape the complainants, which the appellant

ultimately did. Therefore both the sexual assault and the rape were part of one continuous transaction. The conviction of the appellant on separate counts of sexual assault and rape resulted in duplication of convictions. The conviction on sexual assault stands to be set aside.

APPEAL AGAINST SENTENCE

[49] It is trite that the court of appeal will not interfere with a sentence unless it is vitiated by misdirection or the sentence is inappropriate and induces a sense of shock.

[50] In *S v Malgas 2001 (2) SA 1222 (SCA)*, the approach to an appeal against sentence was set out at paragraph 12 as follows: “The mental process in which courts engage when considering questions of sentence depends upon the task at hand. Subject of course to any limitations imposed by legislation or binding judicial precedent, a trial court will consider the particular circumstances of the case in the light of the well-known triad of factors relevant to sentence and impose what it considers to be a just and appropriate sentence. A court exercising appellate jurisdiction cannot, in the absence of material misdirection by the trial court, approach the question of sentence as if it were the trial court and then substitute the sentence arrived at by it simply because it prefers it. To do so would be to usurp the sentencing discretion of the trial court. Where material misdirection by the trial court vitiates its exercise of that discretion, an appellate court is of course entitled to consider the question of sentence afresh. In doing so, it assesses sentence as if it were a court of first instance and the sentence imposed by the trial court has no relevance. As it is said, an appellate court is at large. However, even in the absence of material misdirection, an appellate court may yet be justified in interfering with the sentence imposed by the trial court. It may do so when the disparity between the sentence of the trial court and the sentence which the appellate court would have imposed had it been the trial court is so marked that it can properly be described as “shocking”, “startling” or “disturbingly inappropriate”. It must be emphasised that in the latter situation the appellate court is not at large in the sense in which it is at large in the former. In the latter situation it may not substitute the sentence

which it thinks appropriate merely because it does not accord with the sentence imposed by the trial court or because it prefers it to that sentence. It may do so only where the difference is so substantial that it attracts epithets of the kind I have mentioned. No such limitation exists in the former situation.”

[51] Section 51(1) of Act 105 of 2007 prescribes minimum sentence of life imprisonment for a conviction of rape where the complaint is raped more than once unless there are substantial and compelling circumstances that justify a lesser sentence in terms of section 51(3) of Act 105 of 2007.

[52] In sentencing the accused, the trial court has to take into account the nature and seriousness of the offence, the interests of society and those of the victim, and the personal circumstances of the accused. *S v Zinn* 1969 (2) SA 537 (AD).

SUBMISSIONS

[53] The appellant submitted that the court *a quo* erred in finding that there were no substantial and compelling circumstances justifying a deviation from the prescribed minimum sentence. It was submitted that the following factors, together with the appellant’s personal circumstances, establish substantial and compelling circumstances: (a) the appellant had been incarcerated for a period of 3 years, 5 months, from the 26th of January 2020 to the date of sentence; (b) the appellant was 38 years at the time of sentence but was 34 years at the time of the incident; (c) the appellant was not married and had no children; (d) it was not clear how far the appellant progressed at school; (e) the appellant was self-employed; (f) the appellant was not a first offender and he had relevant previous convictions; (g) the appellant had fallen from grace from his community; and (h) the appellant had lost his family support.

[54] The appellant further argued that the court *a quo* failed to enquire into the proportionality between the offence and the period of imprisonment. Further that the

sentence ought to be reduced as it is unjust and disproportionate to the crime, the criminal and the interests of society.

[55] The respondent submitted that the seriousness of the offense, the interests of society, and aggravating factors may outweigh the accused's personal circumstances or the mitigating factors. In this matter the aggravating factor is that the appellant had a previous conviction of rape and attempted murder.

COURT A QUO'S APPROACH TO SENTENCE

[56] In sentencing the appellant, the court a quo considered the appellant's personal circumstances and found that there were no substantial and compelling circumstances for the court to deviate from the minimum sentence.

[57] The court a quo considered the seriousness of the offence, noting that the appellant brutally raped the complainants and the complainants would have to live with the trauma of the rape. The court also took into account the personal circumstances of the appellant and found that the fact that the appellant was on parole was an aggravating factor.

[58] I now turn to the prescribed minimum sentence imposed by the court a quo. The enquiry is whether the evidence led by the appellant constitutes substantial and compelling circumstances that should have persuaded the court to deviate from the prescribed minimum sentence of life imprisonment.

[59] The appellant relied on the following personal circumstances in his bid to have the court depart from the minimum sentence of life imprisonment:

- (a) the appellant was not married and had no children; (b) it was not clear how far the appellant progressed at school; (c) the appellant was self-employed; (d) the appellant was not a first offender and he had relevant previous convictions; (e)

the appellant had fallen from grace from his community; (f) the appellant had lost his family support; and (g) the appellant was 34 years old.

[60] The appellant's relevant convictions cannot be relied upon to justify the reduction of sentence. His loss of family support and standing in the community is as a result of his criminal conduct and does not assist the appellant. The remaining personal circumstances are similarly insufficient to constitute compelling and substantial circumstances.

[61] In *S V PB 2013 (2) SACR 533 SCA Boshielo JA* noted that three earlier decisions of the Supreme Court of Appeal not to impose life imprisonment for rape did not constitute a benchmark or precedent which is binding on other courts. This is in recognition of the fact that no two cases present the same factual matrix. The court concluded that a slavish following of a trend not to impose life imprisonment for rape was improper.

CONCLUSION

[62] The appellant took advantage of the vulnerability of the two trusting young girls, 18 and 19 years old, who were visiting a friend to celebrate Christmas. What should have been a joyful day became a horrific ordeal. The appellant raped them repeatedly and persisted even when they began to bleed. Undoubtedly, the complainants will carry the psychological and emotional scars of that day for the rest of their lives.

[63] Aggravating the situation further, is the fact that the appellant has a previous conviction of rape and was out on parole when these offenses were committed. The appellant showed no remorse. The appellant's personal circumstances are far outweighed by the seriousness of the offence and the interests of society.

[64] This court finds no misdirection on the part of the trial court. The complainant's version was clear, detailed, and consistent and corroborated by objective medical findings. The inconsistencies and contradictions in the complainants' version, including

where the appellant retrieved the firearm, do not affect the weight of the complainant's evidence. While these points may raise peripheral concerns, they do not create a reasonable doubt when weighed against the totality of credible and corroborated evidence presented by the State. The court a quo cannot be faulted for accepting the complainant's version.

[65] The appellant's version on the other hand that he had no sexual contact with the complainants and that the rape allegation was a fabrication is so farfetched and inconsistent with the evidence. The explanation that the complainants conspired with the appellant's ex-girlfriend is so improbable that it was correctly rejected as false. Accordingly, there is no basis to interfere with the conviction.

[66] The sentence of life imprisonment imposed by the court is appropriate under the circumstances. I therefore find that there was no basis for a departure from the prescribed minimum sentence of life imprisonment.

In the result I make the following order:

1. The appeal against conviction and sentence on count 1 is dismissed.
2. The appeal against conviction and sentence on count 2 is dismissed.
3. The appeal against conviction and sentence on count 3 is dismissed.
4. The appeal against conviction and sentence on count 4 is upheld.
5. The appeal against conviction and sentence on count 5 is upheld.
6. The appeal against conviction and sentence on count 6 is dismissed.
7. The appeal against conviction and sentence on count 7 is dismissed.
8. The appeal against conviction and sentence on count 8 is dismissed.
9. The appeal against conviction and sentence on count 9 is dismissed.

ACTING JUDGE OF THE HIGH COURT

I AGREE,

**S MFENYANA
JUDGE OF THE HIGH COURT**

Heard on: 30 January 2025

Delivered on: 10 June 2025

Appearances:

For the Appellant: Adv M.G Botha
Instructed By: Pretoria Justice Centre

For the Respondent: Adv M.J Nethononda
Instructed By: The Director Public Prosecution