



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

CASE NO: SS67/2022

(1)	REPORTABLE: YES	☒ NO
(2)	OF INTEREST TO OTHER JUDGES: YES	☒ NO
(3)	REVISED.	
16.5.2025		
DATE		SIGNATURE

In the matter between:

STATE

V

RONICA RAGAVAN

ACCUSED 1

PUSHPAVEN UGESHI GOVENDER

ACCUSED 2

OPTINUM COAL MINE (PTY) LTD

ACCUSED 3

KOORNFONTEIN MINES (PTY) LTD

ACCUSED 4

TEGETA EXPLORATION AND RESOURCES (Pty) LTD

ACCUSED 5

MALEANTLANA JOEL RAPHELA

ACCUSED 6

JUDGEMENT

MAKAMU J

Introduction

- [1] The accused have been charged with charges of fraud, money laundering, forgery and uttering amongst others. The accused 1 to 5 pleaded not guilty and offered the section 212B of CPA 51 of 1977 facts that are not in dispute and accused tendered his plea explanation in terms of section 115 of CPA 51 of 1977
- [2] The State made some submissions that they intended to call a forensic expert Mr Trevor Sean White to testify and hand in a report about his overall impression of the case after consulting some witnesses and perusing some of the documentary exhibits. The defence have been furnished with the report compiled by Mr White already so it is not something that will take the defence by surprise. It sounds like a noble idea to give overview of the case from the start.
- [3] Adv. Helens SC objected to the witness testifying first at this stage of the trial on hearsay evidence yet the witnesses may still be called at a later stage and he will then be entitled to testify and give his opinion about the case as the evidence would have been led and it will not be hearsay evidence.
- [4] Counsel for accused 1 to 5 further indicated that the court may admit such evidence provisionally provided the witnesses pertaining to those particular aspects will come and testify, and further that it will be difficult to cross examine the said forensic witness who may be testifying about hearsay evidence that he does not have first knowledge of it.
- [5] I do not want to regurgitate the entire submissions by Mr Helen SC in order not to waste time as the road ahead need to begin in earnest. He quoted mainly the matter of Price Waterhouse Coopers (2015) (2) ALL SA 403 (SCA) at length pertaining to the challenges in calling a witness who does not have first hand knowledge of the evidence but rely on what he was told by the actual witnesses.
- [6] The State in reply indicated that they have submitted to the defence a list of all witnesses that will testify and indeed those witnesses will be called to come and testify so such evidence may be admitted by the court provisionally, until the witness comes and testify, then the testimony of Mr White in t=respect of that witness may finally be admitted.

- [7] It is correct that hearsay evidence may be admitted provisionally and if such evidence is not supported by the actual witnesses such evidence may not be considered at the end of the case and should be discarded. It is a practice in our courts to treat hearsay evidence in that fashion.
- [8] It would appear like the forensic witness Mr White will testify and hand in a report about evidence of many state witnesses, therefore there is a danger of burdening the court to revisit many provisional admissions of hearsay evidence in the final judgment to finally admit such evidence or reject it as hearsay. He is not excluded from testifying and hand the report as state is intending to do but not before the actual witnesses have testified.
- [9] In a case where many witnesses are still going to be called set a trap to the court to do that exercise whilst writing its judgment and it is not prudent to embark in that sort of exercise, in that way, rather wait for the witnesses to testify and Mr White will then be called to come and connect all the dots instead of connecting the dots in the beginning of the trial.
- [10] The State is *dominis litis*, as such the court cannot dictate to the State which witness to call when, however, the court noted the objection by the defence although the defence also observed that the State is *dominis litis* and is at liberty to call its witnesses in their own order which cannot be dictated by the Court or defence. It will not be proper for the court to make an order that the State should not call Mr White first it is their prerogative, what has been ventilated does not stop the State from starting with whatever witness they like to call first.
- [11] Therefore, I make the following order.

1. The State is *dominis litis* and can call their witness according to their own order.


M S MAKAMU

JUDGE OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION; JOHANNESBURG

Appearances

For the State: Adv. Vogel

Adv. Mahlangu

Instructed by: Director of Public Prosecution

For the Accused: Adv. M Helens SC

Adv. Joubert

Instructed by: Krause Inc.

Date of hearing: 14 May 2025

Date of judgment: 16 May 2025