

REPUBLIC OF SOUTH AFRICA



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

Case No A135/2024

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

A handwritten signature in black ink, which appears to be "Imraan Chothia", is written over a horizontal line.

Dated 26 September 2025

SIGNATURE

IMRAAN CHOTHIA

Appellant

V

THE STATE

JUDGMENT

KUNY J (MAHOMED J CONCURRING)

1. The appellant, Mr Imraan Chohtia, was charged with assault with intent to do grievous bodily harm committed on 19 August 2020 at the Cradlestone branch of Salamat Motors. He was convicted as charged on 18 July 2022. On 16 February 2023, he was sentenced to three years' imprisonment, wholly suspended for a period of four years, on condition that he paid R150 000 to the complainant as compensation and on further condition that he was not convicted of assault committed during the period of suspension. The appellant appeals only against his conviction.

EVIDENCE

2. The complainant, Mr Siyabonga Sphelele Mthiyane, testified that the appellant slapped him, grabbed him by his clothing, dragged him into the office, and, together with others, assaulted him, including kicking him in the genital area. He suffered injuries that were confirmed in the J88 medical report (Exhibit A).
3. The complainant's testimony was subjected to extensive cross-examination. While inconsistencies were revealed in his account of where the assault began and the number of assailants involved, his evidence remained consistent and unwavering on the central issue, namely, that the appellant personally initiated and participated in the assault against him.
4. The complainant's account is materially corroborated by the medical evidence in the J88, which recorded swelling and pain in the genital area and difficulty in urinating, consistent with the injuries he described.
5. The complainant knew the appellant well, having been his employer since 2016, and was able to identify him without difficulty. The possibility of mistaken identity

is therefore excluded. The complainant had no apparent motive to fabricate allegations against a man he described as a respected boss.

6. The appellant testified in his defence. He admitted being present at the branch on the day in question, but claimed his purpose was to meet Warrant Officer Bester in relation to a case of a stolen vehicle. He denied ever calling the complainant into the office or assaulting him. He alleged instead that another employee, Katlego, was brought into the office and later fled, bleeding.
7. The appellant denied that any assault took place in his presence and alleged that the complainant subsequently fabricated allegations for the purpose of extorting money from him. He referred to telephone calls and SMSs demanding money ranging from R700 to R2.6 million. However, he did not provide phone records or independent corroboration of these claims.
8. The appellant's version, while clear in denying involvement, fails to account for the complainant's injuries objectively confirmed by medical evidence. His suggestion of a monetary motive is speculative and is not supported by any independent evidence. His attempt to link the incident to another employee (Katlego) does not address the allegation of assault against him.
9. It is of particular significance that the appellant, who admitted that he very rarely attended the Cradlestone branch, happened to be present on the very day of the alleged assault. This coincidence supports the complainant's version and undermines the appellant's denial. Had the complainant been fabricating his account, it would be an unlikely coincidence that he placed the appellant at the scene on a day when the appellant was in fact present.

Hospital treatment of the complainant

10. Following the assault, on 19 August 2020, the complainant was in a state of severe pain and was semi-conscious. After regaining awareness, he was given water before arrangements were made for him to be taken for medical care.
11. He was first treated at the Azaadville clinic, where he testified he was given an injection and pills in an attempt to stabilise him. He stated, however, that he was still unwell when discharged from the clinic.
12. Due to his continuing serious condition, he was subsequently transferred to Carletonville Hospital, where he described his state as worse, saying he 'felt dead' and could not feel himself. At Carletonville, he received more substantial treatment. The J88 medico-legal report later confirmed injuries consistent with his version of being assaulted and kicked in the genital area.
13. In my view, the fact that the complainant was first taken to Azaadville clinic is significant. It demonstrates that his injuries were sufficiently serious to require urgent medical stabilisation at the nearest available clinic, followed by referral to a larger hospital for further care. This sequence is consistent with normal medical practice and strengthens the credibility of his account of a serious assault.
14. It is also significant that the appellant's residential address is recorded as No. 14 Luxmi Avenue, Azaadville, being the very area where, on the complainant's evidence, he was taken after the assault. Several possible inferences arise from this coincidence. On the one hand, Azaadville may simply have been the closest available clinic to the scene of the assault, explaining why the complainant was taken there. On the other hand, the fact that the complainant was taken to an area

where the appellant lived, tends to reinforce his testimony that the appellant was involved in the assault.

15. Although there is no direct evidence that the appellant arranged for the complainant to be taken to the Azaadvile clinic, the geographical overlap is striking. At a minimum, it is consistent with the complainant's evidence and casts doubt on the appellant's denial. If the complainant were inventing his version, it would be an unlikely coincidence that he would testify about a medical facility situated in the area where the appellant resided. This evidence corroborates the complainant's version and casts doubt on the appellant's version that he knew nothing about the assault.

Bester's Evidence

16. The defence further relied on the evidence of Warrant Officer Bester, who confirmed that he was present at the Cradlestone branch on the relevant date. He testified that he interviewed a man named Katlego regarding extortion calls and that the appellant waited outside. He denied ever seeing the complainant or any assault on the complainant taking place in his presence. He recorded in the occurrence book ("OB") an entry about Katlego fleeing and injuring himself.
17. At first glance, Bester's evidence appears to support the appellant's denial. However, closer scrutiny reveals significant weaknesses in his evidence. The complainant and Bester both placed themselves at the branch at or about the time of the alleged incident, yet Bester claimed never to have seen the complainant at all. This is improbable. Both also referred to a cellphone recording being played to Katlego. Bester testified that while he was interviewing Katlego, a recording was played to him from the appellant's cellphone. The appellant testified that he recorded phone calls from Katlego demanding money over stolen vehicles.

However, he denied any involvement in a recording being played to the complainant. The complainant, on the other hand, testified that the appellant had played a recording for him and had asked him to identify the voice. The congruity of these separate pieces of evidence points strongly in favour of the credibility of the complainant about the events of that afternoon.

18. In the context of the evidence as a whole, Bester's denial that he knew of the complainant's presence at the company's premises on that day of his assault was improbable. It was put to him that he knew of the assault upon the complainant and that he had lied to shield the appellant from blame. His insistence that no assault occurred in his presence does not, in my view, exclude the possibility that the appellant participated in an assault on the complainant before, after or while Bester was at the company's premises. Bester could not explain the complainant's injuries, and his evidence did not cast doubt upon the complainant's testimony regarding the assault.
19. Bester testified that he saw blood on Katlego's face and head after hearing the sound of a window breaking. He attributed the blood to Katlego's injury from hitting the window. His evidence in this regard is consistent with the complainant's evidence that he saw blood at the reception area and on the floor and that he also observed broken windows. The appellant also confirmed having seen blood on Katlego's face and forehead after hearing glass breaking. All the witnesses gave similar evidence in relation to the injury sustained by Katlego from broken window glass at the company's premises, and the blood on him. In my view, this lends credibility to the complainant's evidence about the events of that day.

1. Summing up the above evidence:

- 1.1 The accused and Bester both place themselves at the scene at the relevant time.
- 1.2 The admitted circumstances point to the inevitable conclusion that there was a direct and forceful confrontation at the company's premises on the day in question with suspects regarding the alleged stolen vehicle. The complainant's evidence that he was confronted with a cell phone recording and asked to identify the voice confirms that he was one of the suspects.
- 1.3 The appellant and Bester's denials were narrowly framed and, taking the evidence as a whole, were designed to shield themselves rather than to present a full and candid account of the events.
- 1.4 The evidence of the accused and Bester that they knew nothing about the assault on the complainant is not credible. Their presence at the scene, the evidence of blood, the existence of cell phone recordings, and the timing of events point to their knowledge of the incident. In my view, their testimony does not withstand scrutiny when compared against the complainant's unwavering evidence about the attack and the objective corroborative facts.

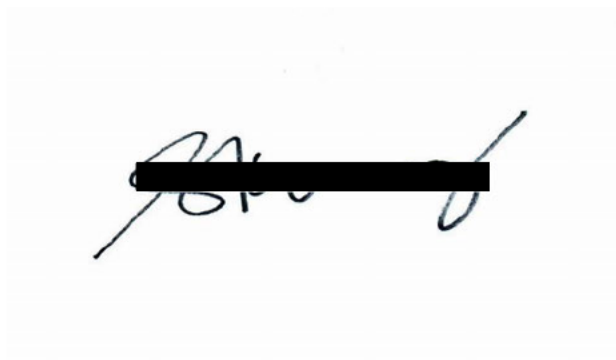
CONCLUSION

20. In weighing the totality of the evidence, the court finds that the complainant's evidence, despite peripheral inconsistencies, is truthful and reliable in its material respects. His version is corroborated by the J88 medical report. The appellant's

denial is improbable, self-serving, and not supported by independent evidence. Bester's evidence does not detract from the State's case and, if anything, reinforces the suspicion surrounding the appellant's denial.

21. Although the complainant could not identify with absolute certainty which person landed any particular blows on him, there can be no doubt of the appellant's participation in the assault. The appellant was present and therefore aware of the assault. Even if it could not be proven with certainty that the appellant landed any particular blow on the complainant, the evidence showed that he made common cause with the assailants and acted in concert with them.
22. In my view, the trial court did not misdirect itself in weighing up the evidence and in assessing the charges against the appellant. Looking at the facts of the case as a whole, the appellant's version was correctly rejected as false beyond a reasonable doubt.
23. The assault upon the complainant was of an aggravated nature. There can be no doubt that it was committed with the intent to cause grievous bodily harm. In my view, the sentence imposed on the appellant for such a serious assault was lenient.
24. In the circumstances, the following order is made:

1 The appeal against the appellant's conviction is dismissed.



JUDGE S KUNY
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, JOHANNESBURG



JUDGE S MAHOMED
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, JOHANNESBURG

Handed down electronically on 26 September 2025 and uploaded to Caselines

Case heard: 19 May 2025

Date of judgment: 26 September 2025

Appearances:

For Appellant: Advocate JC Kriel

Instructed by: BDK Attorneys, Johannesburg

For the state: Advocate MB Mchunu

Instructed by: DPP, Johannesburg