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

Case Number: CC18/2025

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED: NO

DATE: 01 SEPTEMBER 2025

SIGNATURE

In the matter between;

STATE

and

S[...] G[...]

ACCUSED

JUDGMENT

M.Munzhelele J

Introduction.

- [1] The accused, Mr S[...] G[...], appeared before this Court on a charge of murder. The deceased was his lawful wife. The couple had three children, all of whom are adults. One of the children testified as a witness in this matter, as she was present, asleep in the house when the incident occurred.
- [2] The alleged offence occurred on 4 March 2024 at Olivenhoutbosch, Extension 13, the residence shared by the deceased and the accused. It is alleged that the murder was premeditated, as contemplated in section 51(1) of the Criminal Law Amendment Act 105 of 1997, as amended or that it is the murder which occurred due to domestic violence. The accused pleaded not guilty to the charge and elected to remain silent, declining to disclose the basis of his defence.
- [3] The accused made formal admissions, contained in Exhibit A, which were read into the record by his legal representative. These admissions were recorded as admissions in terms of section 220 of the Criminal Procedure Act 51 of 1977. The accused admitted, inter alia, that the deceased died on 4 March 2024 and that photographs of the deceased, marked Exhibits 1A–V, were taken. During the trial, several exhibits were handed up in support of the accused's contention that the State witnesses lacked credibility, due to inconsistencies between their oral testimony and prior statements. These included Exhibit C, being the statement of Clement Machaba, and Exhibit D, being the statement of Olegang Innocent Sasing. The State also called Dr. Seduma Suzan Mabotja, who testified regarding the injuries sustained by the deceased as reflected in Exhibit B. This exhibit was handed in by consent between the parties.

- [4] The State led the evidence of Constable Sasing, B[...] G[...], Clement Machaba, and Dr Seduma Mabotja. The accused testified in his own defence but did not call any witnesses. The State was represented by Adv. Masekoameng. The accused was initially represented by Mr Madinane, instructed by LegalWise, but subsequently terminated his services and applied for legal aid. Legal Aid South Africa approved his request, and Adv Van Wyk was appointed as a new counsel for the accused. The merits of the case were finalised, and both parties advanced their arguments.

Facts of the case

- [5] Constable Sasing, stationed under Visible Policing at Olivenhoutbosch, was on duty as a driver on the night of the incident. He was accompanied by Sako and Maswanganyi as his crew members. They received information regarding a complaint at the residence of the deceased, which required their attention. Upon arrival, they found the accused outside the house but within the yard. It was the accused who opened the gate for them.

The accused thereafter opened the door to the deceased's room. Constable Sasing observed bloodstains in the room and a substantial amount of blood on the bed. He noted that the deceased was already deceased at that stage. Her entire face was covered in blood, and she had sustained a wound on her forehead.

Constable Sasing testified that he enquired from the accused as to what had transpired. The accused responded that the deceased had entered his room and that a fight ensued, after which she returned to her own room. At that stage, the accused did not elaborate further about the altercation. When pressed further, the accused stated that they had fought using stones or bricks, although no such objects were observed at the scene.

The accused's rights were partially explained to him, but the consequences of not remaining silent were not explained in full. Emergency services were summoned to the scene, including an ambulance, detectives on standby, a pathologist, and a photographer.

Constable Sasing's observations indicated that no fight had occurred in the accused's room. The set-up suggested that the accused had left his bed and gone out, whereas signs of a violent struggle were evident in the deceased's room. Under cross-examination, the witness testified that the accused stated that he was angry and could not recall what object he had used, as he had used multiple objects to assault the deceased.

[6] B[...] G[...], the daughter of the accused and the deceased, testified that she resided with her parents at the time of the incident. She stated that her parents frequently argued, and that the deceased had moved out of the main bedroom—where the accused continued to sleep alone—and into her child's bedroom, which was the room in which her body was later discovered. She described the presence of blood on the walls, floor, bed, and on the face of the deceased.

The witness testified that although her parents often quarrelled, their disputes were verbal in nature and did not involve dangerous weapons. She explained that these quarrels generally arose because her mother visited friends, which angered her father and led to arguments.

On the night in question, the witness did not hear any argument or altercation. Instead, her father knocked at her door and informed her that the deceased was injured following a fight, and that she should call an ambulance. When she enquired how such a fight could have occurred without her hearing anything, the accused did not respond.

The witness attempted to check on her mother by knocking at the door of her room and calling her name but received no response. She attempted to open the door, but the door was locked. She then returned to her own room. Shortly

thereafter, the accused knocked again at her door, instructing her to call her boyfriend. She handed her phone to the accused, who then called her boyfriend, Clement, and requested that he come to the house as “there was a problem.”

While awaiting Clement’s arrival, the witness continued knocking at her mother’s door, in the presence of the accused, but received no response. The accused then remarked that it was the deceased who had locked the door. Upon arrival, Clement first spoke privately with the accused outside, although the witness could not hear the conversation. When they entered into the house, and upon hearing that the door was locked by the mother, Clement suggested breaking the locked door. At that stage, the accused produced a container with keys and asked which number corresponded to the lock. He selected the key, handed it to the witness to unlock the door, but when she was unable to do so out of fear, he took the key and unlocked the door himself.

Upon entry, the witness saw a pool of blood on the floor, wall, and bed. The witness further testified that on the Sunday night preceding the incident, her parents had been arguing verbally after her mother returned from a meeting with friends where they had been consuming alcohol. The quarrel ceased when the witness threatened to move to her grandmother’s house due to the disturbance. They thereafter went to sleep. She did not witness or hear any altercation that led to her mother’s death.

Under cross-examination, the witness denied that her parents ever engaged in physical fights. When asked about allegations that her mother would break household items during arguments, the witness did not comment. When confronted with an incident in which her mother allegedly assaulted the accused to the point that he required hospitalisation, the witness stated that she had no knowledge of such an occurrence, although she confirmed that her mother was arrested in 2010 or 2011. She denied that her mother used drugs but conceded that her mother was a heavy consumer of alcohol.

[7] Clement Machaba, the boyfriend of the accused's daughter B[...], testified that he was called by the accused on the night in question. He responded to the call and, upon arrival at the accused's residence, it was the accused who opened both the gate and the house for him to enter.

Before he entered the house, the accused engaged him in a conversation, stating that he had fought with the deceased because she was driving his cars and allegedly involved with young men of the same age as his daughter. The witness testified that he did not wish to waste time conversing, as he was intent on entering the house to take the deceased to hospital. The accused, however, appeared in no hurry to assist the deceased and wanted to continue talking.

Once the door to the deceased's room was unlocked, B[...] entered first, with Clement following behind her. The accused did not enter. When B[...] became visibly terrified by what she saw inside, Clement turned to look at the accused, who then made a hand gesture across his throat, indicating either that the deceased's throat had been slit, that she was dead, or that he had killed her.

Upon seeing the scene, Clement took B[...] by the hand and suggested they proceed to the police station. At that point, the accused stated that they should also request an ambulance. The witness later observed injuries on the deceased when photographs were being taken, noting two wounds on the top of her head.

Clement further testified that the accused requested that, in the event of his arrest, Clement should take care of his children, check on the vehicles, and monitor the house and yard. Under cross-examination, the witness confirmed that his relationship with the accused had been cordial, and this was not disputed at that point.

[8] Dr Seduma Suzan Mabotja, a forensic pathologist since 2010, testified as an expert, that she had performed numerous autopsies and compiled reports thereon. She conducted the post-mortem examination on the deceased and found multiple injuries. These included haemorrhaging on the right frontal and

occipital bones, the right temporal bone, and the right parietal bone. The zygomatic and nuchal muscles were incised.

She noted fractures along the sagittal plane of the right frontal bone, as well as a linear depressed fracture of the right anterior cranial fossa and the right temporal-parietal area. The zygomatic bone was fractured. The brain was swollen, and the right temporal lobe was contused on its basal aspect. The tongue was contused on its tip and right posterior aspect. The lips were both contused and incised.

Further, the right common carotid artery was incised, and fractures were observed on the hyoid bone and larynx on the right side. A large haematoma was also present on the right side of the neck.

- [9] Dr. Mabotja further testified that she found nine penetrating incised wounds on the head and face, as reflected in Exhibit B (paragraphs 4.3–4.11 of the post-mortem report). She also identified six blunt force injuries to the neck and upper limbs, as reflected in Exhibit B (paragraphs 4.12–4.17).

A shoe print was noted as a patterned bruise on the right side of the chest and on the medial aspect of the proximal half of the right arm. Injuries were also observed on the deceased's hands: the middle finger was incised and fractured, while the ring finger was contused. The doctor opined that these hand injuries were defensive in nature, consistent with an attempt to shield herself and ward off further blows.

Dr Mabotja rejected the proposition that the injuries were caused by a single instrument. She testified that the severing of the carotid artery could not have been caused by a hammer or by shoe prints but was inflicted with a sharp object. She also denied that the injuries could have been caused by the accused pushing the deceased with a wooden chair or by the deceased falling on a flat, smooth floor.

She concluded that more than one instrument had been used to inflict the injuries: a sharp object, a blunt object, and a shoe.

Defence Case

[10] The accused, Mr S[...] G[...], testified in his own defence. He stated that on the day preceding the incident, the deceased did not sleep at home. On the following morning, he collected her, and they returned home together. In the afternoon, the deceased again went out to meet the same friends to drink alcohol. The accused went to a soccer field and only returned later that evening, at approximately 20h00.

Upon his return, his daughter, B[...], requested that they fetch her mother to ensure that she would not spend the night away from home again. They accordingly fetched the deceased and returned home. A verbal altercation ensued between the accused and the deceased until B[...] intervened, telling them that if they did not stop arguing, she would leave to stay with her grandmother, as their constant fighting disturbed both her and her child, preventing the child from sleeping. The parties thereafter retired to their separate bedrooms, as was their usual practice.

In the early hours of the morning, the accused testified that the door to his room was opened, and the deceased entered, carrying a hammer with which she attempted to strike him. He blocked the blow with a chair. The deceased then stumbled over a cell phone, ran to her room, and locked the door. After a short while, she returned again, still armed with the hammer. They pushed each other, and the accused claimed that he overpowered her and took the hammer from her.

The accused further testified that as he attempted to reach for his keys, the deceased took a knife from the chest of drawers and attempted to stab him. At

that point, he struck her with the hammer. The deceased fell onto the bed, stood up again, and he struck her a second time with the hammer. Thereafter, he locked her in the room, took his clothes, and went outside to the stoep. He later returned to the kitchen, placed the knife back on the drawer, wrapped the hammer in a yellow plastic bag, and intended to take it to the police station. However, on his way there, he became afraid and disposed of the hammer in a schoolyard before returning home. He stated that he replaced the keys in their original position and went to wake B[...], instructing her to call the police and an ambulance. According to him, B[...] did not know the contact numbers.

The accused testified that he then asked B[...] to call her boyfriend, Clement. She dialled Clement's number and handed the phone to the accused, who asked him to come to the house. Clement indeed arrived. The accused claimed that he requested Clement to call an ambulance, but Clement instead suggested that they take the deceased to the hospital. When they entered the deceased's room and saw her condition, it was decided that the incident should be reported to the police. B[...] and Clement went to the police station to make a report, following which, the police arrived at the house.

The detectives escorted him to the deceased's room, where photographs of the deceased and the layout of the house were taken. When asked about the weapon, he informed them where it had been disposed of, and a formal pointing-out was subsequently conducted. He denied having told the police that he used a brick to assault the deceased. He also denied having made a hand gesture indicating that he had killed the deceased.

The accused's version was that he acted in self-defence, as the deceased had attempted to stab him with a knife. Under cross-examination, however, he stated that "time killed the deceased". When questioned about the fact that, by the time he struck the deceased the second time, the knife had already fallen and he was no longer in immediate danger, the accused was unable to provide an answer. He further admitted that he did not check the nature or extent of the injuries sustained by the deceased.

Arguments by the Parties

[11] The State submitted that it had proved its case beyond reasonable doubt and that the accused unlawfully and intentionally murdered his wife. It was argued that the State witnesses were credible, reliable, and their versions were consistent and probable, particularly the evidence of Dr. Mabotja, who established that the deceased died as a result of multiple injuries.

The State argued that the accused's version—that he struck the deceased only twice with a hammer—was false and directly contradicted by the medical evidence. The fact that both blows were aimed at the deceased's head, coupled with the incised artery supplying blood to the brain, demonstrated an intention to kill. The accused failed to explain how the severing of the artery occurred or how the deceased's defensive wounds on her middle and ring finger came about.

The State further submitted that the conduct of the accused after the incident demonstrated a clear intention to kill. Firstly, he locked the deceased inside her room and left the house. Secondly, he concealed the hammer by disposing it off, in a schoolyard. Thirdly, he initially refused to allow his daughter, B[...], to access the deceased's room, and only produced the keys when Clement suggested breaking down the door. The accused also delayed in summoning assistance for the deceased. It was in this context that, under cross-examination, he stated that "time killed the deceased," rather than himself.

According to the State, the accused had knowledge that his conduct would lead to the death of the deceased. The multiplicity of injuries, as described by the doctor, were fatal and consistent with a sustained and intentional attack. The accused's version was said to be improbable and inconsistent with the proved facts. He alleged that he had struck the deceased twice, yet the post-mortem reflected multiple blunt and sharp force injuries. He also claimed that the deceased had attacked him with both a knife and a hammer, yet he failed to

inform the police of this version when initially questioned. His conduct in discarding the hammer and returning the knife to the kitchen drawer was illogical and indicative of concealment rather than self-defence. The State accordingly argued that the accused did not act in self-defence but with the requisite intention to kill and therefore ought to be convicted of murder.

- [12] On behalf of the accused, Adv Van Wyk submitted that the State failed to discharge its burden of proof. It was argued that the State had not disputed that the accused's cell phone had been damaged during the incident, which corroborated his version of a struggle. Furthermore, Constable Sasing's testimony was unreliable, as he failed to mention in his written statement that the accused had informed him that the deceased attacked him with bricks or stones. This inconsistency, according to the defence, rendered his evidence doubtful.

Defence counsel argued that the State failed to prove that the accused acted with *dolus directus* (direct intention) to kill the deceased. It was further submitted that the State did not prove that the accused foresaw, as a possibility, that his conduct could cause the death of the deceased, and nevertheless reconciled himself to that outcome. Counsel conceded that certain injuries were inflicted during the course of self-defence but maintained that the accused did not exceed the bounds of self-defence with the necessary intent to kill.

However, it was submitted that the accused had been negligent in failing to ascertain the extent of the injuries suffered by the deceased, as a reasonable person in his position would have done. Accordingly, the defence submitted that the accused should not be convicted of murder, but rather of culpable homicide.

Analysis

- [13] The matter before this Court turns on circumstantial evidence, as there is no direct evidence of the events leading to the deceased's death. The State bears

the onus of proving beyond reasonable doubt that the accused unlawfully and intentionally killed the deceased. The accused's version must be considered against the totality of the evidence led by the State. Where his version is reasonably possibly true, even if improbable, he is entitled to an acquittal.

The Accused's Version

[14] The accused, Mr S[...] G[...], testified that he acted in self-defence. He stated that in the early hours of the morning, the deceased entered his bedroom armed with a hammer and attempted to assault him. He blocked her attack with a chair. According to him, a struggle ensued during which she stumbled, retreated, and later returned with the hammer. He claims to have disarmed her, after which she attempted to stab him with a knife retrieved from the chest of drawers. He struck her twice with a hammer in response to this attack.

[15] The accused further testified that he then locked the deceased inside her room, concealed the hammer in a schoolyard, and only later attempted to secure help by waking B[...] and summoning Clement. He denied any intention to kill and maintained that his actions were defensive. Under cross-examination, however, he was unable to explain why he struck the deceased a second time after she had already dropped the knife, or why he failed to check the extent of her injuries.

The State's Evidence

[16] The State relied on circumstantial evidence from several witnesses. Constable Sasing testified that upon arrival he found the deceased lying lifeless, with extensive blood loss. He observed no evidence of a struggle in the accused's room, contrary to the accused's version. The physical evidence indicated that the violent struggle occurred in the deceased's room and not that of the accused.

B[...] G[...] testified that her parents frequently quarrelled verbally but never engaged in physical fights involving weapons. On the night of the incident, she did not hear any fight. She described the accused's reluctance to open the deceased's locked room and his insistence on stalling until Clement arrived, which suggested concealment.

Clement Machaba testified that the accused delayed in seeking help and made a hand gesture indicating that the deceased had been killed. He also relayed that the accused complained about the deceased's conduct with other men, revealing a possible motive to the assault.

Dr Mabotja, the pathologist, testified that the deceased sustained multiple blunt and sharp force injuries, inconsistent with the accused's claim of only two blows. The severed carotid artery and the defensive wounds on the deceased's fingers were not explained by the accused. The doctor opined that multiple instruments were used, which contradicts the accused's version of events.

[17] The accused's version is fraught with improbabilities. His claim of two hammer blows cannot be reconciled with the multiplicity and severity of injuries found by the pathologist. The defensive wounds indicate that the deceased attempted to shield herself from repeated blows, which is inconsistent with a short-lived act of self-defence as described by the accused.

[18] Furthermore, his conduct after the incident — locking the deceased in her room, concealing the hammer and the knife, failing to summon help immediately, and refusing to open the room for B[...] until pressured by Clement when he wanted to break the door — points to an attempt to conceal rather than to seek urgent

medical assistance. This behaviour is inconsistent with that of a person who acted in lawful self-defence.

[19] The State's case, though circumstantial, is cogent and consistent. The observations of the crime scene as depicted on the photos, the medical evidence on the postmortem, and the testimony of B[...] and Clement, all corroborate one another and undermine the accused's version. His failure to give a reasonable explanation for key aspects — such as the severed artery, the multiplicity of injuries, and his concealment of the weapons — further weakens his defence.

[20] When the evidence is considered in its totality, the accused's version is not reasonably possibly true. The circumstantial evidence points overwhelmingly to the conclusion that the accused assaulted the deceased repeatedly with different instruments, causing her death. His conduct and the nature of the injuries demonstrate *dolus directus*.

[21] *Dolus directus* exists where the accused had the direct intention to bring about the unlawful consequence (death of the deceased, in this case). See also *S v Sigwahla* 1967 (4) SA 566 (A) at 570B–C: The court held that “intention is present when the accused subjectively foresaw the death of the deceased as a certain or substantially certain consequence of his act.”

The following are the points why I find that the accused acted with direct intent to cause the death of the deceased:

- Targeting the head: The pathologist testified that the accused struck the deceased on the head, causing catastrophic injuries, including a severed carotid artery. The head is a vulnerable part of the body. A reasonable

person knows that repeated blows to the head with a hammer carry a high probability of death. Striking there suggests a conscious aim to kill.

- Multiplicity of injuries: The accused admitted to “two blows,” but the postmortem revealed multiple blunt and sharp-force injuries, consistent with repeated, deliberate assault rather than a defensive act. Multiple blows, directed at life-threatening areas, suggest an intention to kill rather than to merely ward off an attack.
- Failure to seek immediate help: After the assault, the accused locked the deceased in the room, hid the hammer, and stalled in opening the door for others. This is not the conduct of someone concerned about saving a life but rather of someone who accepts or desires death as the outcome.

On these facts, the most plausible inference is that the accused desired and aimed at the deceased’s death, i.e., *dolus directus*.

[22] Accordingly, the State has proved beyond reasonable doubt that the accused unlawfully and intentionally killed the deceased. I reject the version of the accused, of self-defence as inherently improbable on these facts. Thus, the accused acted with the requisite intent to murder.

This is the murder which occurred because of domestic violence as mentioned in the Criminal Law Amendment Act 105 of 1997, as amended.

[23] The following is the verdict:

Accused is found guilty of murder read with the provisions of section 51(1) of the Criminal Law Amendment Act 105 of 1997, as amended.

M. MUNZHELELE

Judge of the High Court of South Africa

Gauteng Division, Pretoria

Appearances:

Counsel for the State: Adv. Masekoameng. DPP Pretoria.

Counsel for the Defence: Adv. Van Wyk. Legal-Aid SA

Date of hearing: 11 – 28 August 2025

Date of delivery: 01 September 2025