



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION; JOHANNESBURG**

DELETE WHICHEVER IS NOT APPLICABLE

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

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

(3) REVISED.

DATE: 2025/09/23

SIGNATURE:

BEFORE THE HONOURABLE ACTING JUDGE COERTSE C.J.

CASE NO: CASE 2022/079
SS 102/2022
ROODEPOORT

STATE

Versus

MASHEGO, JACOB ROMEO

&

SHATE, SIXEM SELF

&

MOSOTHO, PAUL

&

SIWELA, ANDRIES ERNEST

Accused No 1:

Accused No 2:

Accused No 3:

Accused No 4:

JUDGMENT ON THE MERITS OF THE MATTER

THE STRUCTURE OF MY JUDGMENT

1. The four accused were charged committing the following crimes on Tuesday the 4th of January 2022 in Princess Informal Settlement near Roodepoort, also known as Princess Squatter Camp:
 - 1.1. Two counts of kidnapping;
 - 1.2. Two counts of arson;
 - 1.3. Two counts of murder
2. The state alleged that the four accused, on or about the 4th day of January 2022, committed these heinous crimes in the execution of a common purpose. The normal provisos in respect of this allegation are that, precisely where, when and in what manner the common purpose was formed and who the parties thereto were, are at present unknown to State. The State does, however, allege that the said common purpose did exist, at the least, shortly before and for the duration of each of the relevant crimes. It is clear that the State intended to lead some evidence to substantiate its allegations that there was a common purpose underlying each of the six crimes. I will deal with the so-called common purpose below in more detail.

INSPECTION IN *LOCO*

3. During Caroline's evidence I decided to conduct an inspection in *loco* and it was arranged very competently by the State Advocate, Adv Mpekana and the security and the integrity of the court was of paramount importance. When we returned to the court, I reported in detail about the inspection and counsel agreed with me that it was set out correctly. During our walk-about Adv Mpekana warned us not to touch any wires hanging down, it might be dangerous.
4. Observations during the inspection in *loco* do not record what the condition of the place where Caroline's and Anele's shacks were: did we observe any burnt marks? I do not find any notes about the condition of the shacks. Accused No.1 said that there are no burn marks. He states clearly that the community told him that they removed the shacks. The inspection was on 14 November 2023. The incident took place on 4 January 2022. As far as I can recall I did not observe any burnt marks and I may be wrong.

DOCUMENTS TENDERED BY THE STATE:

5. The following documents were tendered by the State:
 - 5.1. Exhibit A: List of admissions.
 - 5.2. Exhibit B: post mortem of Dr Susara Catherina Fourie, Date of post mortem: 7 January 2022. Deceased: Anele Njadu
 - 5.3. Exhibit C: post mortem of Dr Funeka Nciweni, Date of post mortem: 7 January 2022. Deceased: Siyabulela Sehlali
 - 5.4. Exhibit D: First State Witness: Mrs Nomandla Caroline Njadu. A copy of her statement was handed in to the court to form part of the record.
 - 5.5. Exhibit E: State witness Mrs Nomandla Caroline Njadu, made a sketch of the shacks while she was giving evidence.
 - 5.6. Exhibit F: Hospital Records of Accused number 1 Romeo Mashigo 1462757 [patient's number] consisting of 10 [ten] pages.
 - 5.7. Exhibit G: The Section 22 permit in terms of the Refugees Act 130 of 1998, as amended: SULTAN SHIFA MOHAMED and the Reference number is: PTAETH004070913 dated 2025-02-21. It was originally issued at Tshwane, RRC on 2013-09-25 and it was extended 16 times. This permit expires on 2026-02-18.
6. Each accused tendered his plea explanation, subsequently gave evidence, and called supporting witnesses. The following plea explanations of the accused were tendered from the bar and confirmed by each of the accused:

PLEA EXPLANATION BY NO 1

7. Accused No. 1's plea explanation is an *alibi* and is as follows: On 2nd of January 2022 himself, his wife and neighbour were robbed at gunpoint. He was shot in the stomach and on his left arm; it was during the early hours of 3 January 2022 when they were transported by Accused no 3, to Leratong Hospital. The three were admitted to the Leratong Hospital on 3 January 2022. He was discharged on 4 January 2022 and was fetched from the hospital by accused No. 3 and were taken directly to his sister's house [her name is My Flower] in Witpoortjie where he recovered since he was medically unfit. He stayed with his sister from 4 January 2022 to 6 January 2022. He was not in Princess at the day of the incident [4 January 2022]. He was with his sister in Witpoortjie. His discharge was around 17:00. He was fetched from the hospital by No. 3 and he brought him straight to his sister's.

PLEA EXPLANATION BY NO 2

8. Accused No. 2's plea explanation is also an *alibi* and is as follows: He was staying and working at Tembisa Ekurhuleni as a Shop assistant at Robert [?] tuck shop. Zeiny was his employer. It was from October 2018 to April 2022 that he was staying and working in Tembisa. From 4 April 2022 he moved to Princess at Roodepoort for the following reason: he found another employment from April 2022 at Amani Supermarket in Princess Squatter Camp. 4 April 2022 was the first time he ever went to Roodepoort. He never went to Roodepoort prior to 4 April 2022 at all. He was not there at the date of the incident. Just to add his employer is an Ethiopian guy Moosa and he still works for the same guy but at another shop in Mayfair. He does not know any of the people mentioned in the indictment.

PLEA EXPLANATION BY NO 3

9. Accused No. 3's plea explanation is also an *alibi* and is as follows: He also raises a defence of an *alibi*. It was him that took accused No. 1, his wife and neighbour to Leratong Hospital. The day of the offence he was not in Princess Squatter Camp. In the afternoon of 4 January 2022, at round 16:00 he went to Leratong Hospital to fetch no. 1 as he was discharged from the hospital. After he fetched no. 1, he took no. 1 to Witpoortjie, Roodepoort West where he dropped no. 1. He then drove to his brother-in-law where he slept over.

PLEA EXPLANATION BY NO 4

10. Accused No. 4's plea explanation is as follows: He stays adjacent to the place where the incident started. He was inside his house where he was staying and not in bed yet. He heard a group of people singing, and chanting. He went outside the house to see who these people were making the noise. He realises it was a group of people, not sure how many but more than 100. He observed people entering the yard where deceased in count 4 [Anele] was residing. After sometime he heard people saying "Take him along." And that group of people then left. At the time he could not tell if deceased in count 4 [Anele] was taken along. After the people left, he went inside the house and slept. The following day in the morning he heard people indicating the person in count 4 is now deceased. He heard he was taken to the football ground where he was assaulted and killed. In a nutshell: he never took part in the activities of the people in the group. He was not involved in anything pertaining to counts 1 – 6. He was at some time a passive spectator – so he says. I am of the view that No. 4's defence is in essence also an

alibi because he said: "I was not there, I was in bed." He did not take part in the activities at all.

STATE WITNESS TO THE MERITS OF THE MATTER: NOMANDLA CAROLINE NJADU

11. The State's version, in respect of the merits of the matter, is based on the single evidence of Nomandla Caroline Njadu ["Caroline"]. She tells the court what happened at her and her late brother's shacks on the night of Tuesday 4 January 2022 rather late at night. She, her boyfriend, her brother, and children were inside her shack. Her boyfriend fled Princess after the incident and she does not know where he is. She was alerted to the fact that there were more than 100 aggressive people outside the shacks shouting and chanting when suddenly there were knocks on the door. She, her boyfriend, her brother, and her children were inside when they opened the door and she then identified No1, 3 and 4 all of whom entered her shack. There was another man named Jovis with them but he is not in court. They told her that they were looking for her brother, who allegedly wanted to sell a fire-arm to Jovis for R100.00. Anele was found, beaten, and dragged outside. She testifies about how heavily and severely Anele was assaulted with a panga [it was mentioned that No. 3 specifically assaulted Anele with a panga], sticks, a golf stick [no1, allegedly, used a golf stick], and stones.
12. The two shacks were sprinkled with petrol and set alight. Her brother, Anele, was then frog marched to, what is colloquially referred to by the community, the sports grounds, or the soccer fields. At the soccer fields she saw No. 2. At this point Caroline changed her evidence in the following manner: when she first testified, she was clear that she saw No. 2 arriving at the soccer fields with his Quantum with a man, inside. This man was bleeding [Siyabulela] when he was taken out from the inside of the panel van. Later, she stated that when she arrived at the soccer fields, No. 2 was already there with his Quantum and Siyabulela Benison Sihlali, bleeding from a wound to his face. He, Siyabulela was taken out, was put next to Anele on the tarmac and poured with petrol. Her brother, Anele got up and tried to run away, but No. 2 pursued him with the Quantum and knocked him down. These two people were set on fire; they subsequently died. She was standing watching from a distance away from where these two victims were burnt. It was late at night. She was greatly stressed and she tells the court she wants justice for her brother's death. She was adamant that

the four accused are the murderers of her brother and the other person who is not in court. This was the heartbeat of her evidence.

13. She stated in her evidence in chief that her and her brother's shacks were poured with petrol and were destroyed, yet she did not see anybody actually setting it on fire. Shortly after that, under the cross-examination of Ms Qoqo, Caroline said Ernest, that is no 4 and Jovis entered her shack and Jovis was in possession of the petrol and he was the one that started pouring the shack inside with the assistance of Mechanic [no 3] and no 3 was also beating her brother up. She also changed her evidence in respect of who entered her shack: first she said Jovis, no 1, 3 & 4 entered. Later she changed by saying that only Ernest [no 4] and Jovis entered the shack and the others were outside. I made a note in my bench book that she changed her evidence in respect of who entered her shack and when they allegedly entered. She went on and stated under cross-examination that Jovis, no 3 and his employee entered Anele's shack. She was indeed a very difficult witness. Caroline even said that the mob who was standing at her gate entered her place – she emphasised that "all of them entered my place." And later she changed once again by stating that the crowd stopped at her house. Ms Qoqo asked her what was the crowd doing and what did they want from you. Caroline then refused to answer the question. The reason why she refused was her was heart sore about her brother's death. The court insisted that she answers and she told the court about the assault on Anele by Jovis, no 3 and his employee. Anele was also assaulted by the mob. She insisted that she saw the accused as she described.
14. She was vehemently and at length cross-examined by the defence council on the availability or non-availability of electricity at Princess. She was of the view that she could see clearly in the available lights, be it candle light in her house, or electric lights at or near the soccer fields. This was hotly contested. The visibility of the two scenes was hotly contested. The presence or not of electricity at the time of the crimes remains a mystery.
15. Caroline testified in court that the soccer fields were about 50 kilometres from her house and it would take her 30 minutes to run it. That called for an inspection *in loco*. It was clearly an overstatement by her. Caroline was at times rather rude when answering the questions and she stated very self-assuredly that "I am not blind. I can see. I was scared." It was clear to the court that she was oblivious of her own shortcomings as a witness and of what was going on at the two shacks

and at the soccer fields. She was clearly confused as to the chronology of the events at the shacks and at the soccer fields especially when accused allegedly arrived with "his" Quantum at the soccer fields with Siyabulela inside the vehicle.

16. Her witness statement was then handed in as evidence, Exhibit D. It was her statement; she signed it after it was read back to her. She acknowledged her signature. She stated in her statement that the group of people assaulted her brother with sticks, a panga, a "golf stick" and stones. They were also kicking, and hitting him with fists. Caroline insisted that there were street lights at the soccer fields and that visibility was good. It was put to her that the electricity was legally installed at Princess after the incidents. It was denied by Caroline.
17. Adv Mbunzu then cross-examined her on behalf of accused 2, 3 & 4. Princess is a very neglected squatter camp and Caroline agreed with him. Caroline said that Ernest [no4], Jahman [no1] Jovis and Mechanic [no 3] and Mechanic's employee were at her shack's door. She confirmed that these 5 people knocked on her door. Ernest and Mechanic's employee went into Anele's shack. The mob outside her shack was armed with a grass cutter, panga, sticks, stones, and "golf sticks." She stated under his cross-examination that when she [Caroline] arrived at the soccer fields, the Quantum was already there. Adv. Mbunzu put it to her that she, Caroline will do anything to bring people who killed her brother to book and her reply was: yes, she will do that. Caroline, under his cross-examination, told the court for the first time that her friend also witnessed the killing of her brother. When she was confronted with this, her glib reply was that nobody asked her previously. Her friend was standing at her gate near the soccer field witnessing the killing. Caroline also told the court different versions of who was staying at the house where she was standing witnessing the killings. Caroline was very argumentative with Adv Mbunzu about what exactly happened at her so-called friend's house and who stayed there. During the cross-examination she once again stated that she saw the Quantum arriving at the soccer fields. And there was a person inside the Quantum while no 2 was driving it. She continued to tell the court that there were one or two Pakistanis inside the Quantum and one Pakistani took out the boy and handed him to the community. Caroline then switched her testimony and told the court that one of the people in the company of No. 2 was driving the Quantum. She was once again argumentative with Adv. Mbunzu and denied that she ever said No. 2 was driving the Quantum. She insisted that she told the court that No.

2 took the boy out of the Quantum and the community was hitting the boy. She was once again strenuously cross-examined by Adv Mbunzu about the visibility but she insisted that she could see everything. She also stated that she had no idea what happened back at her house and she does not know who set the shacks on fire and yet she insisted that she knows who burned her shacks. The last time she was in Princess was on 5 January 2022 pointing out certain aspects to the SAPS. Adv Mbunzu put to her that she returned 3 weeks after the incidents to fetch her car and that the SAPS asked No. 4 to assist with the battery of her car. She denied it vehemently and that is how the bad blood between Caroline and no 4 came about which she denies. He put it to her that she returned on 6 January 2022 to fetch her belongings and that the shacks were not burnt down. She testified that there was a community meeting, everybody was there inclusive of the accused and the community warned them that the people who will report it to the Police, will be burned. The court provisionally allowed this hearsay evidence, but I now rule that it be allowed. She repeated that she was afraid to report it to the SAPS but eventually after a long time she decided that she had to report it. According to her No. 2 had a golf club with which he hit both the deceased. She insisted that she saw No. 2 with her own eyes at the scene of the crimes. It was put to her that No. 2 only started working on 4 April 2022 in Princess and that he does not know the area. No. 3, according to Caroline, was "hitting" the deceased with stones. No. 4, according to Caroline, was hitting both the deceased with a knobkierie, so were many other people assaulting the deceased. She insisted, after the court asked her about the reactions of the more than 100 people, that all of those more than 100 people were assaulting the deceased and they were severely injured. She denies that the version by no 4 is correct because she saw him doing what she told the court he did.

NEXT STATE WITNESS: SERGEANT JOSEPH MANGANYI

18. The next State witness was sergeant Joseph Manganyi, who first attend to the crime scene. He rushed to Princess and found a crowd of more than a 100 people who were very angry. He found two people on the ground who were severely injured. They were burnt. The community complained that these two victims were terrorising the people and they were robbing the people and intimidating them and that is the reason why they were assaulted. This hearsay evidence was tendered without any objection and I rule that it is admitted. There were

lights there and visibility was good. He arranged an ambulance and the Public Order Policing to come and control the crowd. Electricity was an ongoing problem in Princess. It was clear from his evidence that he did not go there to inspect the situation about the lighting, he was there to attend to a very serious crime namely mob violence.

NEXT STATE WITNESS: SERGEANT PATRICK GODFREY SHILALUKE the investigating officer

19. Sergeant Patrick Godfrey Shilaluke was the investigating officer and he was also the arresting officer of all the accused and told the court how and when the accused were arrested. No. 1 handed himself over to the SAPS, no 2 at a shop, no 3 early one morning at home in the presence of his girlfriend, no 4 in the presence of Caroline while he was in his motor vehicle. Caroline told him that the accused burnt her shack. He told the court that electricity in Princess was always problematic. It was either legal or illegal connections. He told the court, and his evidence was not attacked in cross-examination, that the squatters in Princess, used electricity extensively throughout Princess whether legal or illegal and he emphasised that this went on for more than 20 years. He said that the squatters enjoyed more illegal electricity than people who used legal connections. He ended his evidence informing the court that if the officials terminated the illegal connections in Princess, within 2 hours, after they left, all the illegal connections were restored. When he was cross-examined by Ms Qoqo, he stuck to his evidence that Princess was never out of electricity be it legal connections, be it illegal connections. He has had more than 22 years' experience as a SAPS officer doing duties in Princess. He could not assist the court whether there was electricity the night of the incident, because he was not there.

NEXT STATE WITNESS: PATHOLOGIST DR. SUSARA CATHARINA FOURIE in connection with her *post mortem* on the body 45/2022 written up in Exhibit C being Anele Ndaju

20. She does on average 12 to 15 *post mortems* per day and, she is at the time of her evidence, employed as a forensic pathologist for more than 5 years. I find that she is a medical expert and qualified to give her professional medical opinion. She found sub-aponeurotic haemorrhages involving the left scalp over the frontal, parietal, and temporal scalp. That translates to blunt force trauma and internal bleeding in the skull and at para 13 of her report it is stated that the

lungs were oedematous which means there was internal bruising consistent with blunt force. She was of the professional opinion that the blunt force trauma described above was not sufficient to have caused the death of the deceased, that is the reason she stated that the cause of death was determined to be consistent with burns and the complications thereof. She said that she found that the body was burnt 70%. She stuck to her opinion that the other injuries, described as blunt force trauma were not of a nature to have caused the death of the deceased. The lack of observable external injuries, does not necessarily mean that there were none of it. There were no external signs of fatal blunt force injuries.

NEXT STATE WITNESS: DR. FUNEKA NCIWENI in respect of body DK41/2022 being the body of Siyabulela Benison Sihlali written up in her report Exhibit D dated 24/2/2022

21. She is a forensic pathologist in the employ of the Department of Health since 2017. She does about 400 autopsies per year. I find that she is a medical expert and qualified to give her professional medical opinion. She recorded that the cause of death was determined to be: blunt force trauma to the head and burns. In paragraphs 4, 5, & 6 of her schedule of observations she recorded the external appearance of the body, head and neck and she read her findings into the record. There were the following wounds: clean cut wounds, burn wounds, a tube inserted to assist him with breathing, a line on his left leg because he needed very fast infusion of fluids in a short space of time, bleeding inside the skull and a blow on the head before the burns. The underlying wounds were the burn wounds. There was deep bleeding of the brain and it was swollen. She was of the opinion that both the blunt force trauma to the head and the burns, were equally fatal. She underscores her evidence to be based on her knowledge of science and pathology and she recorded her findings correctly. The body must have been alive when the tube and lines were inserted.

SECTION 174 APPLICATIONS FOR THE DISCHARGE OF ALL THE ACCUSED ON ALL CHARGES

22. Adv Mpekana then closed the State's Case and the four accused launched a Section 174 application for the discharge of the accused. In summary I handed down the following judgment in terms of the application:

In respect of accused 1, 3 and 4:

23. The applications for the discharge of each of these accused in respect of count 5 the kidnapping of Siyabulela Benison Sihlali are successful.
24. I find each of them not guilty in respect of count 5 the alleged kidnapping of Siyabulela Benison Sihlali.
25. The applications for the discharge of each of them in respect of count 1 the kidnapping of Anele Njadu, count 2 the arson of Anele Njadu's property, count 3 the arson of Nomandla Caroline Njadu's property, count 4 the murder of Anele Njadu and count 6 the murder of Siyabulela Benison Sihlali are dismissed.
26. I further ruled that accused, 1, 3 & 4 are therefor put on their defence in respect of counts 1,2,3,4, and 6.

In respect of accused 2

27. The application for the discharge of the accused in respect of:
 - 27.1. count 1 the alleged kidnapping of Anele, count 2: the alleged arson of the property of Anele, count 3: the alleged arson of the property of Caroline is upheld.
28. He is found not guilty in respect of count 1, 2 and count 3.
29. I ruled that accused 2 is put on his defence in respect of count 4 the murder of Anele Njadu, count 5 the kidnapping of Siyabulela Benison Sihlali and count 6 the murder of the said Siyabuela Benison Sihlali.
30. The defence case is based on the evidence of the four accused, their respective witnesses and the medical records pertaining to accused No. 1.

ACCUSED NO 1's evidence and his witness's evidence

31. Accused No. 1 testifies to the fact that the evening prior to the fatal incident, he, his wife, and another adult were inside his shack when robbers entered it; shot them and left his shack. He asked number 3 to take all three of them to hospital; they were admitted and he was discharged late the afternoon of the following day, which happened to

be the afternoon prior to the incident later that night. On discharge from the hospital, he requested no 3 to fetch him and to take him to his sister, Myflower; no 3 arrived, took him to Myflower in Witpoortjie and left. Accused No. 1 was dissatisfied being discharged so soon after he was shot and wounded, he felt it was too soon and he should have stayed longer. His description of his injuries is as described by Dr. Marc Kangolologo from Leratong Hospital.

32. He was cross-examined by Adv Mpekana and Accused No. 1 told the court that he is presently employed by the Johannesburg Zoo. He, his wife, and the other man were attacked at about 23:00 on 3 January 2022 and it was too dark to identify the attackers. He returned to Princess on 6 January 2022. He saw the state witness, Caroline after his discharge from the hospital and after his stay with his sister, the first time in court. He heard that it was the community that removed the shackles although he did not see it himself. He does not know Caroline and it is possible that she knows him from the tavern because many people come to the Taverne. He says many people know him but it does not mean that he knows them. He denies wielding a golf club because he was not there the night of the incident. When he came from prison, they were busy putting in the electricity cables. It was not illuminated at the time of the incident. He tells the court that on 4 January 2022 he was not there and he does not know what the situation was with the electricity. If someone says that there were lights shining at the soccer fields during the time of the incident, he cannot dispute it because he was not there that night. He asked no 2 why he was in prison. Accused No. 2 denied any knowledge of why he was in prison. Accused No. 1 does not know accused No. 2 and does not know where No. 2's spaza is or where he resides. Accused No. 1 knows No. 3 and it was him that took them to hospital and fetched him, and took him to his sister Myflower in Witpoortjie. Previously he only knew no 4 by sight, and they became friends in prison. He asked No. 3 and No. 4 why they were in prison. He cannot remember what they told him. He forgot a lot of things because it is such a long time ago. He does not know where No. 3 was the night of the incident, neither does he know where No. 4 was that night. It appeared to him that the shackles were removed and not burnt. He confirms that No. 3 took him to his sister's.
33. Dr. Marc Kangolologo from Leratong Hospital gave evidence and he qualified as a medical expert and he considers himself to be qualified to peruse documents from the hospital and more particularly Exhibit F that was handed in by the defence on Monday 7 April 2025 shortly prior

to the doctor was called to give evidence. He took the court thru Exhibit F1 to F10. Each page was scrutinised and he was led in evidence by Ms Qoqo and cross-examined by Adv Mbunzu on behalf of accused No. 2, 3 & 4 and Adv Mpekana on behalf of the State. I consider him to be a medical expert and that he is qualified to give evidence and qualified to give his views and opinions on the contents of Exhibit F1 – F10. His evidence was not of the highest complexity and the way he presented it, made sense to the court. He is competent and knowledgeable in respect of the contents thereof.

34. He is the only medical expert that gave evidence in respect of Accused No. 1's injuries; whereas the State did not submit medical evidence contrary to what Dr. Kangolologo gave. I am mindful of what was said in *Nienaber v Road Accident Fund*-case that it is the court's duty to decide whether to rely on Dr. Kangolologo or not and to what extent the court should rely on it. It is my duty to give weight to his evidence. I am also mindful of what Nugent J said in the *Van Der Meyden*-case 1999 (2) 79 (W), that I should have a holistic approach to evidence and not to look at it piecemeal. How does Dr. Kangolologo evidence fits into the whole matrix that is for me to consider?
35. Dr. Kangolologo's evidence fits in with the accused No. 1 version in the following respects:
 - 35.1. There was a gunshot wound to his left wrist and it was in a plaster of Paris cast.
 - 35.2. There was a non-penetrating gunshot wound to the right side of his abdomen.
 - 35.3. Accused No. 1 was admitted to the Leratong Hospital on 3 January 2022 which ties in with accused No. 1's testimony and his plea explanation that he was taken there during the night of 2 January 2022. The first document F is dated and timed at 3 January 2022 and at 00H50.
36. Dr. Kangolologo confirmed what no. 1 told the court how they had to get patients out to make space for patients in greater need. Accused No. 1 was rather critical of the hospital for his discharge so early as he felt he could have stayed longer and yet he was discharged. I asked the medical doctor specifically if this was the case at the hospital and he confirmed it. The two are not house friends and it is clear that no. 1 is not a medical doctor or have any medical training. I asked Dr. Kangolologo if they would have kept no 1 longer in hospital and his reply was yes, but they have instructions to discharge patients sooner rather than later.

37. The time frames noted on the relevant pages of Exhibit F when accused No. 1 was admitted and when he was discharged are within the ambit given by both accused No. 1 and accused No. 3. Dr. Kangologo was not able to give a considered medical opinion whether no 1 was in a physical condition to have participated in the mob violence and whether he was able to violently swing a golf club. He says pain is a very personal experience and no 1 was issued with Panado and Brufin. The pain sustained from the gunshot to his side would have affected his entire body and not only his side. His arm was fractured and that would have been painful as well. He said that: "... it was very unlikely that a person in this position will participate in mob violence." I made a note of his exact wording. Under cross-examination by Adv Mpekana he stated no 1 would not have been able to carry out an assault if he had a lot of pain, because he was seriously injured. If his injuries were not serious, he would have been discharged on the spot. Accused No. 1's gunshot wound should have received medical attention in a theatre but there were queues of people in casualty waiting for theatre.
38. It is common cause that the State did not counter attack the medical evidence by its own medical evidence.
39. My Flower Shrn Mashego is the sister of accused number 1 and she gave evidence. She lives in Witpoortjie, Roodepoort. Accused No.1, her brother, was shot in her shop/taverna. I think that she was a good and impressive witness. She answered each question put to her and she did not volunteer anything else. She stuck to her answers and got irritated if the questions were repeated because she said she answered it already. She only took the money from the Taverne and her husband tended to the maintenance of it. The money of the Taverne was her concern and not the day to day running such as the maintenance of it. She said to Adv Mpekana to ask her husband if he wants to know what was happening at the Taverne. She can tell us about Witpoortjie where she stays but not about the electricity situation in Princess. She said that if you want to know about electricity there at the Squatter Camp, ask No.1. She does not know No. 2. It was the first time she has ever seen No. 2 was now in court. She does not know exactly what the "menu" for that night was that she gave her brother to eat but, it must have been pap. She is a Pedi woman who cooks pap and not rice. That is what she cooks. I placed on record that she was somewhat irritated with Ms Qoqo and her tone of voice and body language was indicative of such irritation. I tested it against Ms. Qoqo and she agreed.

Advocates Mbunzu and Mpekana agree. She said she cannot tell the court what her brother could or could not do with his right arm and she advised Adv Mpekana to ask No. 1. She confirms that he was weak and after food went to bed. Her brother was obviously in pain and she was looking after his medication. She does safeguard her house at night by switching on her burglar alarm system and she is adamant that it did not go off during the night. Consequently, her brother did not leave the house during the night. Adv Mpekana asked her about the movements of accused No. 2; her answer was very telling: "... if you want to know that, ask number 2." She said she does not know No. 3 personally, only as Mechanic. If you want to know anything about him, her advice was to ask him. She is a lady who knows what she wants and she is very sure of what she says is the truth. She will not answer what is not in her domain. "If you want to know that, please ask the person concerned." I think that is very strong. The lady knows her onions.

Accused No. 2 and his witness's evidence

40. When accused number 2 entered the witness stand, he was asked to state his full names, and to spell it, something strange happened: he gave his names and he spelt it. The names on the indictment and the names that he gave, are completely different from each other. This was still during the process of being sworn in. Immediately, I stopped the swearing-in process, and asked him for his identification document, which he produced.
41. His identification document, is his Section 22 permit in terms of the Refugees Act 130 of 1998 as amended, and is also known as "the asylum seekers permit." Commonly it is referred to as: "aslam" or "aslam certificate" or "aslam permit." A copy of this document was handed in as Exhibit G. His names on Exhibit G are spelt as follows: SULTAN SHIFA MOHAMED and the Reference number is: PTAETH004070913 dated 2025-02-21. It was originally issued at Tshwane, RRC on 2013-09-25 and it was extended 16 times. This permit expires on 2026-02-18. I was informed from the Bar that Accused no.2's date of birth on Exhibit G is incorrect in that he was born on 1968-11-05 and not on 1985-11-05. The courts' hands are tied and cannot correct this administrative error.
42. After a short adjournment, to give his advocate an opportunity to canvas this discrepancy with his client, Advocate Mbunzu assured, me from the Bar, that his client is aware of this discrepancy and he can live with it, as it were. Accused no 2 never attempted to disclose the reasons for this discrepancy. I accepted this assurance and proceeded

with the trial and henceforth the names on the section 22 permit will be taken, for the purposes of this trial, as his nickname. The State Advocate also accepted this route.

43. Accused No. 2 gave evidence. He first lived in Kuruman Northern Cape where he was working in a tuck shop. Then he moved to Tembisa where he had a better job offer. He came to Tembisa 2017 where he worked for Zein to 2022 when he moved to Princess, Roodepoort. He does not own a motor vehicle. He does not have a driver's licence and he cannot even drive a motor vehicle. He uses taxis to go anywhere. Musa is the owner of the tuck shop in Princess. It was the first time for no. 2 to be in Johannesburg. He slept in Mayfair at Musa's place whereafter Musa took him to Princess tuck shop. He only arrived in Princess on 5 April 2022. He has never been there in his life previously. It was the first time that he was in Princess on 5 April 2022. He denies involvement with the crime scene at all. It is a complete *alibi*. Musa gave evidence and corroborates the evidence of No. 2 in that he did not own a vehicle let alone a Quantum and he can not drive; he was not living in the Princess squatter camp at the time of the crime. Presently accused No.2 is jobless. He and Keiru work in a tuck shop. They were sleeping together in the room where he was arrested. He was arrested round 04:00 in the morning while they were still sleeping. He did not see 1st state witness with the SAPS. The SAPS came in about 5 vehicles. The SAPS suddenly decided that they would arrest him: they pointed directly at him and then he was arrested. They never told him why he was arrested. He does not know her at all. He does not know all his clients. They must know him. Yes, he sells meat as well. This was the first time when he slept in Mayfair at Musa's place on 4 April 2022.

44. Accused's no 2's witness is Mr. MUBAREK BEDRU MOHAMED [Musa]. He is the owner of the tuck shop where no 2 started working 5 April 2022 in Princess Squatter Camp, Roodepoort. He has two tuck shops in Princess since 2015. No. 2 did not assist him in purchasing merchandise, that was Musa's concern. No. 2 does not have a vehicle and as far as he knows, he cannot drive. Musa does not have a Quantum; he only has a Hyundai H100 bakkie with a canopy. Keiru is working for him 4 years already. It was clear to Musa that no 2 does not know Princess because he had to give him directions how to go about Princess. Musa not only fetched him from the MTN taxi rank, took him to Mayfair where Musa was staying, but took him the following day to Princess Squatter Camp. He knows all four the accused: no 1:

he works in Princess where Musa's shops are. No. 2: of course, worked for him at his tuck shop in Princess. No. 3 is known as Mechanic. He is very well known. No. 4 is a local and well known. No. 1 had a bar there. He says that Princess officially got electricity end 2022 the beginning 2023. It is illegal when you get a line from the pole. The Court asked him if his note reflects the situation correctly when it is noted that No. 2 did not know Princess before he started working for Musa at all. He confirmed that my note reflects his words correctly. He stated: "I know No. 2 does not have a vehicle because he worked for me." He was cross-examined and asked whether accused No. 2 was present on 4th of January 2022 at the scene and the answer was clear and unambiguous: he was not there. I asked him why he was so sure about it, and the answer was that he, Musa, knows that accused No. 2 does not have a vehicle, cannot drive, and accused No. 2 only arrived at the Squatter Camp on 5 April 2022 when he took No. 2 to the tuck shop. Musa stated clearly that it was the first time No. 2 went to the Squatter Camp, because he, Musa had to take him there as he did not know anything about the place. He told the court that there were a lot of illegal electrical connections. He explained what he knows about illegal connections: you get electricity from a pole. During the inspection in loco, Adv Mpekana warned us not to touch any wires as it might be live wires so to speak.

Accused No. 3's and his witness's evidence

45. When the court was busy with the swearing in of accused No. 3, as a witness, he gave a second name over and above what appeared on the indictment. The names on the indictment are: MOSOTHU, PAUL. Whereas he gives his names as follows: MPIANENG PAUL MOSOTHU. I immediately started enquiring from his counsel, Adv Mbunzu, about this glaring discrepancy. He gave me, from the bar, the assurance that it is his second name and nothing hinge on it. Adv Mpekana and Ms Qoqo were satisfied with the explanation, and he was sworn in. He gave his evidence; I made a note that he was calm and in control of himself. He never volunteered more than what was asked and just answered the question and remained silent after that. I am of the view that he withstands the cross-examination very well and I find that he was a truthful and honest witness.
46. Accused No. 3 denies that he knows the first state witness, Caroline Njadu. It was put to him that she gave evidence that she knows him and even that he is an auto mechanic. He repeated that he does not

know her. The court tried to clarify what he understands what it means "to know someone," but could not get through to him. He agrees with the court that they are not house-friends and they are not visiting one another. He took accused No. 1, his, wife, and a neighbour to hospital because they were wounded when they were shot. He fetched accused No. 1 from hospital round about 17:00, from where he took accused No. 1 to his sister's house. Accused No. 1's sister came out and took care of her brother and he left that house in Witpoortjie and went to his brother-in-law's house in Roodepoort where he stayed. It was about to be dark when accused No. 3 dropped No. 1 at Myflower's house in Witpoortjie.

47. Adv Mpekana strenuously cross-examined No. 3 for the reasons why he went to his brother's place in Roodepoort and why he did not go back to his place in Princess Informal Settlement. Accused No. 3 was adamant that Princess was a dangerous place at night and he felt safe and was safe staying with his brother-in-law. His brother-in-law's name is Freddy and he last saw him yesterday [19 August 2025]. Accused No. 3 sister's name is Beauty Mashego. Freddy is self-employed as a hairdresser and he conducts his business from his home in Roodepoort.
48. It was put to him by the State Advocate, that he, No. 1 and No. 4 stormed the first state Witness's shack and burnt it. He denies it. It was further put to him that Caroline pointed him out whilst he was arrested and he stated emphatically that he never saw her when he was arrested. He saw her the first time in court and he furthermore does not know her vehicle.
49. He heard the first time that No. 1 was injured on 2 January 2022 and, the night of the 3rd January 2022 he slept at his brother-in-law's house in Roodepoort. Freddy never visited him in prison and he did not know why not. He was shocked when he was arrested. According to his knowledge, he does not know whether there was electricity at the soccer fields or not.
50. The first time he saw accused No. 2 was when they were arrested. He does not know no 2.
51. During cross-examination, he was asked whether he knew why they were arrested and the answer was no, he does not know the reason. The cross-examination continued and he then stated that he heard people saying that it was because "they" were burnt, because "they shot number 1." Ms Qoqo immediately raised her objections to state that this is clearly hearsay evidence, and if it is hearsay, whether it is admissible.

It was debated for some time and the matter was “parked” as it were, for further argument on Wednesday 20 August 2025 at the resumption of the case. On 20 August 2025, I raised the question about the “parked” matter about the hearsay and it was agreed that it should stand over further until all the evidence is before court then counsel would be able to file proper heads of argument. So, this aspect is not ripe to be attended to. There is nothing material that depends on this aspect,

52. On 20 August 2025 Adv Mbunzu called Mr Frederick Morongwa Matong as a witness on behalf of accused No. 3. He is staying in Roodepoort since 2016. He moved there after he stayed in Princess Squatter Camp for 16 years: from 2000 to 2016. He moved because it became too dangerous living there. He is self-employed as a hairdresser working from home. Accused No. 3 is his “brother-in-law” because he was in love with one of his relatives but is no longer in love with her. It happened frequently that No. 3 came to his house to sleep over and to go back early in the morning to tend to his business as a motor mechanic. No. 3 did that because it was too dangerous and too chaotic there in Princess. No. 3 heard too many gunshots at night. No. 3 would go to Freddy’s house round about 18:00 after business hours.
53. Freddy knows that No. 3 was arrested and tried to visit him in prison, but was turned away because he did not make an appointment to visit. He never went back. Later, No. 3 told Freddy that he was arrested because someone was killed and he [No. 3] was implicated. Freddy does not keep diaries and cannot help with specific dates, but he recalls that No. 3 told him he took No. 1 and other people to hospital in his, no 3’s, vehicle. Freddy saw that the vehicle was bloodstained and Freddy could see for himself that it is dangerous to stay in Princess.
54. Adv Mpekana asked this witness about the time that No. 3 arrived on 4 January 2025 at his house and he told the court frankly that at round 20:00 – 21:00 he, No. 3, was already at his house. He then stated that accused No. 3’s motor vehicle was bloodstained already when he [No. 3] arrived at his, Freddy’s, house. He was clear and to the point when he told the court that Princess is a violent place and that is the reason why he lives in Roodepoort as he does not conform to this violent lifestyle. He was of the opinion that there were no legal connections, only illegal connections. He is aware that of late, there is legal connections in Princess, however, he does not know when it was installed.
55. Adv Mpekana strenuously cross-examined the witness. Freddy told the court about the illegal connections in Princess. He even used the

colloquial word to describe it: “izinyoka” meaning illegal connections. Freddy was cross-examined extensively on the availability or not of electricity at Princess. He was adamant that the left Princess 2016 and was not aware what the current situation there is. Eventually Freddy lamented to the court in the following words: “Please, I don’t want to comment on the lights at Princess, I am not living there.”

ACCUSED NO 4’s and his witness’s evidence

56. Accused No. 4 was called to the witness box and duly sworn in. He is 44 years old living in Princess opposite the first state witness - their gates were facing each other and he described it with gestures of both hands pointing his fingers to each other. He and his wife are living in his own home in Princess since 2015 up to now. He sells liquor for a living. On the night of the 4th of January 2022, they were in the house when he heard a noise and it came closer to his property then he decided to go outside to check what was going on. It was right outside his gate where there was a big crowd of people of more than 100 people who were singing and making a lot of noise. He could not see whether they were armed because it was dark. He described that the crowd was big enough to fill the entire courtroom. It was round about 20:15 when this happened and his neighbour, Akani Chauke who is a taxi owner, joined him outside his gate. The crowd left and he and Akani chatted a while and decided they to go each their own way: Akani to his house and No. 4 turned around to his house. He went to bed. The incident outside his house lasted for about 35 minutes. He did not try to find out what happened the previous night. He heard that his neighbour died the previous night. The deceased lived where the first state witness lived. He only knows the deceased because he would occasionally buy beer from him.
57. Under cross-examination, he told the court that he does not have any knowledge of the incidents of the previous night and he was not involved in anyway whatever. He knows No. 1 because they stay in the same street. He met accused No. 2 in jail when they were arrested and he does not know him at all. No. 3 stays in the same area as him. He knows Caroline because of her coming to buy beer from his taverna. They do have formal electricity in Princess because it was installed September 2022. Previously he used a candle in his home and a generator. He was arrested July 2022 when he was with friends outside in the street. He did not see Caroline the day he was arrested. Caroline asked No. 4 to assist with kick-starting her car but he could

not help her after which she was very upset with the situation and she told him that he would regret it. He was adamant that her shack was not burnt but dismantled by the end of January 2022 because criminals started using the shack from 10 January 2022 to hide in. It was the community that dismantled the shack – he re-iterated that the shack[s] were not burnt down.

58. During his cross-examination he told the court that the area, where he was standing the night of the incidents, was dark. It was so dark that he would not be able to identify anybody at a distance of 10 meters from him. He was not aware what the situation at Caroline's are in respect of electricity because he does not live there.
59. Adv Mpekana put the State's case to him and he denied any knowledge of it and repeated what he told the court in evidence in chief. On a question from the court, he told me that he personally saw the community dismantling the shacks by the end of January 2022.
60. Mr Percy Akani Chauke, No. 4's neighbour, was called to the witness box. He no longer stays in Princess but now he stays in Leratong because it was not safe to stay in Princess. He used to stay in Princess from 2015 but moved away during 2023. He heard that two people died the night of the 4th January 2022. He was not involved and he does not know the people who died. He denied having any knowledge of illegal connections. He came home that night and he saw a big crowd of people in front of the house of no 4. The night of 4 January 2022 he and Ernest were standing next to one another while there was a huge crowd in front of them making a lot of noise.
61. Adv Mbunzu then closed his clients' case and the matter was postponed. It was agreed between the parties that the State would file its heads of argument by no later than 12 September and the Defence would file it's heads of argument by no later than 19th day of September 2022. The matter was postponed to the 23rd day of September 2022 at 10:00 for argument.

THE ONUS IS ON THE STATE TO PROOF THE GUILT OF THE ACCUSED BYEOND REASONABLE DOUBT:

62. Meyer, J, as he then was stated in *S v Chirwa and Others* (SS118/2008) [2010] ZAGPJHC 168 (5 March 2010) the following in connection with the onus of proof in a criminal case: "It is perhaps appropriate to refer to the following passage from the judgment of the Constitutional Court per Nkabinde J in *S v Molimi* [2008] ZACC 2; 2008 (2) SACR 76 CC, para [50]: 'It is a cardinal principle of our criminal law that

when the State tries a person for allegedly committing an offence, it is required, where the incidence of proof is not altered by statute (and it is not in this case), as is the case in this matter, to prove the guilt of the accused beyond reasonable doubt. That standard of proof, 'universally required in civilized systems of criminal justice, is a core component of the fundamental fair trial right that every person enjoys under s 35 of the Constitution. In *S v Zuma and Others*, this court, per Kentridge AJ, held that it is always for the prosecution to prove the guilt of the accused person, and that the proof must be beyond reasonable doubt. The standard, borrowing the words used by Plasket J in *S v T*, 'is not part of a charter for criminals and neither is it a mere technicality.' When the State fails to discharge the onus at the end of the case against the accused, the latter is entitled to an acquittal.'

THE COURT MAY CONVICT AN ACCUSED ON THE EVIDENCE OF A SINGLE WITNESS:

63. Section 208 of the 1977 Act states: "Conviction may follow on evidence of single witness: An accused may be convicted of any offence on the single evidence of any competent witness." It is trite that a court of law may convict on the evidence of any competent single witness. In other words, I may convict the accused on the single evidence of Caroline, she being a competent witness.

THE COURT SHOULD CONSIDER ALL THE EVIDENCE AS A WHOLE AND NOT PIECEMEAL; ONUS ON THE STATE TO PROOF BEYOND REASONABLE DOUBT; ACCUSED VERSION REASONABLY POSSIBLY TRUE

64. The court should consider all the evidence as a whole and not piecemeal as it were. It was stated as follows in the remarks of Davis AJA in *R v De Villiers* 1994 AD 493 at 508 - 509 "The court must not take each circumstance separately and give the accused the benefit of any reasonable doubt as to the inference to be drawn from each one so taken. It must carefully weigh the cumulative effect of all of them together, and it is only after it has done so that the accused is entitled to the benefit of any reasonable doubt which it may have as to whether the inference of guilt is the only inference which can reasonably be drawn. To put the matter differently, the crown must satisfy the court, not that each separate fact is inconsistent with the innocence of the accused, but that the evidence as a whole is beyond a reasonable doubt inconsistent with such innocence"
65. I intend to follow this dictum which was stated somewhat differently in *S v Van Der Meyden* 1999 (2) 79 (W), Nugent J, as he then was, discussed the test for a 'reasonable possibility' in these terms (at p 82) [this matter was referred to, with approval, in the *SCA Appels v The State* [2007] SCA 151 (RSA):

'The proper test is that an accused is bound to be convicted if the evidence establishes his guilt beyond reasonable doubt, and the logical corollary is that he must be acquitted if it is reasonably possible that he might be innocent. The process of reasoning which is appropriate to the application of the test in any particular case will depend on the nature of the evidence which the court has before it. What must be borne in mind, however, is that the conclusion which is reached (whether it be to convict or to acquit) must account for all the evidence. Some of the evidence might be found to be false; some of it might be found to be unreliable; and some of it might be found to be only possibly false or unreliable; but none of it may simply be ignored.'

66. In *S v Mgedezi* 1989 (1) SA 687 AD on page 702I of the report I read: "The idea expressed in the first part of the paragraph, viz. that a mere spectator amongst a crowd present at the scene of violence cannot be held liable for the violence, is, of course, true. No-one has ever suggested the contrary." On page 703E – F of the report, I read the following:

"The trial court erred by precluding itself from performing it's duty to consider the evidence of each accused separately and individually, to weigh up that evidence against the particular evidence of the State witness or witnesses who implicated that accused, and upon that basis then to assess the question whether that accused's evidence could reasonably possibly be true. That the trial court's failure to embark upon such an exercise constituted a serious misdirection can best be demonstrated by considering the position of accused ..." and Botha JA discussed that evidence which is not necessary to repeat here.

LACK OF PHOTOGRAPHS AND OF VIDEO MATERIAL AND OTHER DOCUMENTARY EVIDENCE

67. The saying "mob justice" is in all probability a misnomer and an incorrect term to describe mob violence. I can see no "justice" in it, let alone to trust a mob to dispense justice. A mob dispenses with justice. This expression is so entrenched, that it will be difficult to eradicate. It is even used by authors such as Karl Kemp in his book *WHY WE KILL: Mob Justice and the New Vigilantism in South Africa*. I see it in a newspaper the morning of Thursday 21 August 2025 in THE STAR at page 2 in the article with the heading *Mob justice meted out as charred body of man discovered in Katlehong shack*.

68. I take judicial notice of the clamour in social media that the courts in general do not do its work properly. In this matter I hold different views about this. According to the investigating officer, potential witnesses were rather vocal about the incident under scrutiny, but they refuse to

come to court and to take the court into their confidence. It is trite that there were more than 100 people present the night of 4th January 2022 and only a single witness was called to give a direct eye witness account of what happened. It seems to, without doing research into the matter, as if Princess Squatter Camp is a community ruled by fear and intimidation, corruption, and strong man illegal tactics: even the single witness, Caroline fled the place and is now living somewhere else.

69. Considering the ever-present use of cell phones and the prolific and high-volume use of cell phone videos and cell phone photos, it was sort of expected that this matter was covered extensively by the available technology for instance such as videos, photos, and voice/sound recordings. There were more than 100 people clamouring for a space and they were quite vocal and belligerent. I take judicial notice of these facts and that these incidents at Caroline and Anele's shacks would have been covered extensively by these devices. I was also waiting for the submission of video material and still photos. It was in vain. Nothing was tendered. Not by the State. Nor by any of the accused. It was not even touched upon during the evidence in chief or the cross-examination of any of the witnesses at all.
70. It was further expected that the State would submit official photos of the scene, the surroundings, and the post mortems. The state did not submit a single photograph of the scene: not of the shacks that were allegedly burnt nor of the place where the execution took place. The State did not offer any reasons or explanation for the lack of any photographs at all and therefore the court is left in the dark so to speak.
71. It is also recorded that the State did not hand in any documents, nor lead evidence that an identity parade was performed.
72. *S v Motaung and others* 1990 4 SA 485 AD [as it then was] at p.509A – D the trial court found each of the appellants guilty of murder by invoking the doctrine of common purpose. It is clear from the law report that the trial court had the privilege of a fair number of witnesses and of video-footage and stills which I have not had. On page 491G – I, I find that the Appellate Division said this, referencing to the happenings that lead to the deceased's death: "The deceased, having been pursued, caught, and brought to the ground, was set alight. The attack upon her which ensued, and which continued until she had been butchered to death, was recorded by means of video cameras. The resultant video film provides grim and incontrovertible evidence of what physical acts were performed by those of the appellants who participated actively in the attack upon the deceased. Upon the screening of the video film the overt acts of violence are there for all to see ..." In

the instant matter it is sorely lacking and there were no reasons offered to the court why it is lacking. It impacts negatively on this very case of *Mashego and three others*. I am of the view that I cannot even begin to compare the *Motaung and others*-case with the instant matter except for the legal principles set out here.

73. The State advanced a reason that it was dangerous.

EVALUATION OF THE EVIDENCE: NOMANDLA CAROLINE JADU

74. The evidence of Caroline is hugely problematic and contradictory. Her powers to observe, to assimilate facts and to separate it from conjecture are glaring and, in your face, so to speak. At one stage she testified that it took her 30 minutes to run 50 kilometres, that is what prompted me to call for an inspection *in loco*. Her evidence is a worrying factor that needs serious scrutiny. If the court critically approach her evidence, I am of the view that it lacks clarity especially in light of the discrepancies in her evidence. At the inspection *in loco* we visited the two shacks that were allegedly burnt out, and we took a walk amidst very tight Police security, to the place where she pointed out where the actual murders took place. Even at the place where the shacks were and where the actual killing took place, it was difficult to understand what she pointed out and to answer some of our questions.

75. Anele was her "brother." Caroline's evidence in respect of these allegations contained in the indictment, were strenuously and at length attacked during cross-examination. According to the investigating officer Sergeant Shilaluke she was the only person who was willing to give a statement and to testify. During the progression of her cross-examination, she said that her brother was a suspect and in the same breath she said she heard people say that Jaman [no1] and his wife were shot and that is the reason her brother was a suspect. The real reason or reasons for this uprising are not 100% clear to the court – this court is concerned with the brutal and gruesome facts that Anele and Siyabulela died in a way nobody should come to their end: brutally assaulted with make-shift weapons, doused with a flammable liquid, and set alight. All of this, whilst there were more than 100 people onlooking, shouting, cheering the attackers on, jostling and very excited and aggressive. Some of the onlookers even participated in the assault – according to Caroline. She maintains that the visibility was good that night. There were electric lights. This is a bone of serious contention and I will say more about the availability of electricity as a source for electric lights.

76. She was argumentative with Ms Qoqo and Adv. Mbunzu. She was adamant that the lighting was good and that she could see clearly. Ms. Qoqo and Adv. Mbunzu argued with her on this score telling her that their clients will deny it, which they did.
77. At the start of her evidence, she testified that she saw "My Friend" with the Quantum vehicle without windows [a panel van] arriving at the soccer grounds and they took out a man who was bloodied, from the vehicle and started assaulting him. Later, they poured him with petrol and set him alight. Later she testifies that "My Friend" and the Quantum was already at the soccer field. She pointed to Accused +No. 2 as being "My Friend."
78. A special note on the usage of "my friend." It was explained and corroborated by the eye witness that her reference to a person called "My Friend" is a way to usually refer to Pakistani shopkeepers. Reference then in this matter to "My Friend" is particularly to Accused No.2.
79. The *post mortem* of Siyabulela, Exhibit C, corroborates some aspects of Caroline's evidence which clearly indicate to me that she must have been present but that is the best I can make of her evidence.
80. She "knows" the four accused and she gave her reasons for "knowing" them. Even if I accept that she indeed knows, them, it does not mean that they were the criminals that abducted two people, guilty of arson and brutally murdered two people by burning them. She also said that she knows them from buying goods and or liquor from their shops and that no 4 could not help fixing her car.

EVALUATION OF THE EVIDENCE FOR ACCUSED NO 1

81. Accused No. 1's evidence was short and to the point and it was corroborated by the medical practitioner, no 3 and his sister. He was not argumentative. I am of the view that his testimony was not in any way compromised. His testimony was on all fours with his plea explanation. He was a good witness and he did not deviate from his testimony. He stuck to it. He showed the court his wounds on his left arm near the wrist where he was shot on the night of the 2nd January 2022 and his right hip. These wounds are still clear to the court. He withstood his cross-examination well and gave cogent answers. That is where he and his wife were shot. No. 3 took them and the other guy that were shot to the hospital; he was in hospital from 2 January 2022 and was discharged 4 January 2022. No. 3 took him to his sister's house My Flower where he stayed till 6 January 2022. That was

Witpoortjie. The shack of deceased Anele Ndaju and his sister were removed and not burnt down. He says it is quite clear. I cannot state whether I saw burnt marks where the shacks were allegedly burnt.

82. He says that he does not live opposite Caroline's shack but a distance from the court room to the street from there. And that is where he conducts his tavern. And that is where he, his wife and third person were shot. Caroline's evidence is that he lived and conducted his tavern from opposite her tavern.

EVALUATION OF THE EVIDENCE FOR ACCUSED NO 2

83. Accused No. 2's evidence was also short and to the point. He is a taciturn witness and he only answered questions to the point of being blunt. It seems to the court as if he was very much displaced and in totally unfamiliar circumstances. His evidence was backed up by his employer's testimony who told the court that he, No. 2 does not own a motor vehicle, let alone a Quantum, cannot drive a vehicle and more so, that No. 2, at the time of the killings, he was not familiar with Princess and he was not living there. He only arrived in Princess on 4 April 2022. His testimony was totally in line with his plea explanation.

EVALUATION OF THE EVIDENCE FOR ACCUSED NO 3

84. Accused No. 3's evidence is also to the point, clear, unambiguous and on all fours with his plea explanation. His defence is also an alibi and it was corroborated by No. 1, My Flower and Freddy his brother-in-law. His evidence was not compromised during cross-examination and he answered every question satisfactorily. It ties in with the evidence of accused no. 1.

EVALUATION OF THE EVIDENCE FOR ACCUSED NO 4

85. Accused No. 4's evidence is a bit more complicated but not necessarily not reasonably possibly true. During the night of the crimes, he was using a candle. Formal electricity was only installed later during the year. He called his neighbour whom corroborated his evidence that they were watching the mob outside no 4's house after which they went back to their respect homes. This witness [the neighbour] did not impress me unduly and the reason is that he denies that there are illegal connections in his area and he denies all knowledge of that. This was, considering the evidence before me, a blatant lie. Accused No. 4 was the witness who told the court that the two shacks were not burnt down, but dismantled by the community at the end of January 2022.

He gave a reason for this, namely that on the 10th of January 2022, criminals started using those shacks as a hiding place from the Police. He also gave a reason why Caroline might have implicated him in these crimes because she was angry with him for not helping her repairing her car. In essence, his evidence is on all fours with his plea explanation.

GENERAL OBSERVATIONS

86. Allegations that the deceased Anele Njadu was selling illegal fire-arms – when Caroline testified about this and mentioned it, it was not challenged in cross-examination. There were hearsay evidence that Anele was killed because it was him that shot no 1. There were no reasons advanced why Siyabulela Benison Sehlali was brought to the soccer fields where he was murdered with Anele. I think that Siyabulela is very much an outsider and a lonely person in this matter. All the court knows about him is that he was allegedly brought to the scene by No. 2 and he was killed there. I do not even know where he came from, sadly he had no address.
87. There is an enormous dispute about the visibility of the area on the night in question 4 January 2022. Was there electricity in the Squatter camp or not? When was electricity installed in the area? The record was played back and studied and debated and reservations were made and the court was informed that it will be argued. Neither the NPA nor the defence called any witness or witnesses to inform the court the exact situation of the electric lights on the night of the crimes.
88. I read thru some of the Integrated Annual Reports of Johannesburg City Power and it can be accessed at the link below:
<https://www.citypower.co.za/about-us/company-reports/annual-reports>
89. City Power does have, shall I call it, endless and ongoing problems in the informal sector with illegal or unauthorised electricity power. It is also a specific item on its annual budget. It even reports specific incidents relating to this problem with illegal connections.

THE QUESTIONS THE COURT HAS TO DECIDE

90. The questions this court must resolve are: are these four accused, or any of them, guilty of this gruesome act of killing two human beings? Are they guilty of the other crimes that they are facing?
91. I conclude that the evidence of the only state witness pertaining to the merits of the matter, are unreliable and I cannot accept it as such.

92. I conclude that the state failed to prove its case against the four accused beyond reasonable doubt. The evidence of the accused was clear, unambiguous, and cogent. I accept their evidence and version *in toto*.

93. I further conclude, that the four accused versions are reasonably possibly true and I find them not guilty and acquit them *in toto*.


COERTSE C.J.

ACTING JUDGE OF THE HIGH COURT

DATE: TUESDAY 23 SEPTEMBER 2025

Legal Representatives:

For the State: Adv Mpekana

For accused No 1: Ms Qoqo

For accused No 2, 3 & 4: Adv Mbunzu