



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

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: NO
07 October 2025	
DATE	SIGNATURE

CASE NO: A301/2023

In the matter between:

PHILIP MATSUBANE PASHA

Appellant

And

THE STATE

Respondent

Delivered: By transmission to the parties via email and uploading onto Case Lines the Judgment is deemed to be delivered.

JUDGMENT

MBOWENI AJ (MOSOPA J concurring):

INTRODUCTION

[1] This matter comes before us as an appeal against both conviction and sentence imposed upon the appellant, Mr Phillip Matsobane Pasha, by the Regional

Court sitting in Pretoria. The appellant was convicted of the offence of murder and sentenced to fifteen (15) years' direct imprisonment on 13 September 2019. The basis of the conviction was a dying declaration made by the deceased, Ms Francinah Ramanyelo, identifying "Phillipus" as the person who had stabbed her. The appellant challenges both the admissibility and weight of that declaration and contends that the sentence imposed was unjust in light of the totality of the circumstances.

[2] The appellant's grounds of appeal in respect of conviction may be summarised as follows:

2.1. That no eyewitness saw the appellant either at the scene of the crime or in the company of the deceased on the relevant day;

2.2. That the deceased did not state where she was when she was stabbed;

2.3. That the dying declaration referred only to "Phillipus" without a surname, which, the appellant argues, renders the identification vague and unreliable.

[3] In respect of sentence, the appellant contends that the Regional Magistrate erred in overemphasising the seriousness of the offence and failed to properly weigh the appellant's personal circumstances, including his prior time spent in custody awaiting trial. He submits that a sentence of fifteen years' imprisonment is disproportionate to the nature and circumstances of the offence and ought to be reduced.

[4] The issues for determination in this appeal are thus twofold:

4.1. Firstly, whether the trial court erred in accepting the dying declaration of the deceased as reliable and sufficient to sustain a conviction in the absence of direct or corroborating eyewitness testimony; and

4.2. Secondly, whether the imposition of the minimum sentence of fifteen years' imprisonment under section 51(2) of the Criminal Law Amendment Act 105 of 1997 was appropriate in the circumstances of this case.

SUMMARY OF THE EVIDENCE:

- [5] The State's case rested on the testimony of several witnesses, most notably the deceased's mother, Ms Mogadi Ramanyelo. According to her account, the deceased, Ms Francinah Ramanyelo, returned to her mother's home late at night on 7 March 2010. She was bleeding from a wound to her upper chest. Upon being asked what had happened, the deceased uttered the words: "Phillipus stabbed me with a knife." She pointed to the wound, struggled to breathe, and collapsed shortly thereafter. She was later pronounced dead.
- [6] This statement that "Phillipus" had stabbed the deceased forms the cornerstone of the State's case. The mother, who testified under oath, explained that she knew the appellant personally and that he was commonly referred to by the name "Phillipus" in the family and community. The appellant had previously been in a romantic relationship with the deceased and was well known to both her and her family.
- [7] The State did not lead any eyewitness who observed the actual stabbing. Nor did any witness testify to seeing the appellant and the deceased together immediately before the incident. However, there was evidence that the appellant and the deceased had previously spent time together, and that he was known to frequent the yard of the deceased's mother, where she resided. Notably, the appellant disappeared from the area shortly after the incident, and

his belongings were removed from the premises where he had previously resided.

- [8] The appellant's defence was a denial of the offence and an alibi. He claimed that on the date in question, he was in Limpopo and not present in the vicinity of the deceased. He further denied being involved in any altercation with the deceased and insisted that he had been falsely implicated by the family out of suspicion.
- [9] During sentencing proceedings, it emerged that the appellant had a prior conviction from 2016 for assault with intent to do grievous bodily harm and escaping from lawful custody. He was sentenced to thirty (30) months' imprisonment and declared unfit to possess a firearm. These previous convictions were admitted during the proceedings through the SAP69 record.
- [10] The trial court found the evidence of the deceased's mother to be credible and consistent. Her testimony was not contradicted in any material way under cross-examination, and the court found her to be an honest witness with no motive to falsely implicate the accused. The deceased's statement was regarded as a spontaneous utterance made in extremis, and thus afforded significant weight.

LEGAL FRAMEWORK:

- [11] The admissibility and weight of the deceased's statement "Phillipus stabbed me with a knife" must be assessed in the context of the rules governing hearsay and dying declarations in South African criminal law. It is common cause that the deceased's statement was conveyed to the court through the oral testimony

of her mother, and that it constitutes hearsay unless it qualifies under a statutory or common-law exception.

- [12] Section 3(1)(c) of the Law of Evidence Amendment Act 45 of 1988 provides that hearsay evidence may be admitted where the person upon whose credibility the probative value of such evidence depends is unavailable, and the court is satisfied that the admission of such evidence is in the interests of justice. In the present case, the declarant, the deceased was obviously unavailable due to her death. The trial court was accordingly entitled to consider whether her statement should be admitted under this statutory provision.
- [13] The courts have long recognised that statements made by a deceased person relating to the cause of death may be admissible as dying declarations, provided the circumstances reflect spontaneity, proximity in time to the event, and reliability. In ***S v Ndhlovu* 2002 (2) SACR 325 (SCA)**, it was held that hearsay evidence may be admitted even where it goes to the core of the dispute, provided the safeguards of fairness and reliability are maintained.
- [14] In ***S v Sigcawu* (A47/2021) [2021] ZAWCHC 137; 2022 (1) SACR 577 (WCC)**, the court upheld a conviction based on a dying declaration in which the deceased referred to the assailant by a familiar nickname – “Kaizer who works at the municipality.” The court held that where the context made clear who was being referred to, and where the declarant was familiar with the person, the absence of a surname did not render the identification insufficient.
- [15] Similarly, in ***S v Cupido* (1257/2022) [2024] ZASCA 4**, the Supreme Court of Appeal confirmed that hearsay may be admitted under section 3(1)(c) where the reliability, probative value, and interests of justice favour its inclusion. The

court held that the context in which a statement is made, the relationship between the parties, and the circumstances of the utterance are all critical in assessing its admissibility and weight.

[16] Moreover, in ***S v Classen and Another* (83/2021) [2022] ZASCA 130**, the SCA warned that hearsay should not be admitted where the identity of the perpetrator is speculative or unclear. However, it confirmed that identification is not necessarily defective simply because the declarant used a first name or nickname, provided there is sufficient context and the identifying party is familiar with the individual.

[17] These authorities confirm that a court is entitled to admit and rely upon a dying declaration naming the assailant by a first name if the declarant had a personal relationship with the accused, and if the circumstances surrounding the statement indicate it was both spontaneous and reliable.

EVALUATION AND ANALYSIS:

[18] The crux of the appellant's argument is that the name "Phillipus" was insufficient to link him conclusively to the offence. He contends that because no surname was mentioned, the deceased may have been referring to another individual. This argument, in our view, cannot succeed in light of the surrounding evidence and applicable law.

[19] It is not uncommon in South African criminal cases for dying declarations or witness identifications to rely on nicknames, first names, or other informal designations. The key question is always whether the court, on the evidence before it, can reasonably conclude that the person named is indeed the accused. In this case, the deceased's mother, who knew both her daughter and

the appellant intimately, immediately understood that the reference to "Phillipus" was to the appellant, who was known by that name in the community.

- [20] The deceased and the appellant were in a romantic relationship prior to the incident. The appellant had been living in the yard where the deceased resided. There was no suggestion that any other individual named Phillipus was connected to the deceased in any way. More especially the appellant did not deny that he is referred by the name of Phillipus. This background is essential in placing the deceased's utterance in context.
- [21] The deceased's declaration was spontaneous and unprompted. She was bleeding and in distress, having suffered a fatal stab wound. Her utterance identifying her assailant was made in circumstances of urgency, when death was imminent. In such conditions, courts have consistently held that people have no motive to fabricate or falsely implicate others.
- [22] In ***S v Sauls* 1981 (3) SA 172 (A)**, the Appellate Division confirmed that even a single witness's testimony can be sufficient for a conviction if it is credible. The same applies to hearsay or dying declarations they may stand alone if their reliability is established.
- [23] The trial court applied the correct legal principles. It acknowledged the hearsay nature of the evidence, evaluated the credibility of the deceased's mother, and gave sound reasons for admitting and relying on the dying declaration. It also considered whether the circumstances supported the reliability of the utterance. We find no fault in this approach. When the prosecutor informed court of his intention to introduce hearsay evidence, the appellant who was legally represented did not raise any objection.

- [24] The appellant's alibi that he was in Limpopo at the time of the offence was not supported by any independent evidence. There is no onus on the appellant to prove his alibi. However, it was raised late in the proceedings and was contradicted by circumstantial evidence. The is evidence that he was in the company of the deceased, sister of the deceased who unfortunately died before her testimony was led and most importantly his friend who also places him around the vicinity of the incident a day before the commission of the offence and also on the day of the commission of the offence, when they were consuming alcohol at the deceased's place of residence. He did not testify to who he was with, or provide corroboration. The trial court found the alibi not reasonably possibly true, and this conclusion was fully justified.
- [25] The disappearance of the appellant from the area immediately after the offence, and the removal of his belongings, strongly suggest consciousness of guilt. This conduct, while not determinative on its own, reinforces the reliability of the deceased's identification.
- [26] In ***R v Blom* 1939 AD 188**, the court laid down the two cardinal rules of logic in dealing with circumstantial evidence: (a) the inference sought to be drawn must be consistent with all the proven facts, and (b) the facts must exclude every other reasonable inference. Applying those rules here, the only inference that can be drawn from the totality of evidence is that the appellant was the person the deceased referred to as "Phillipus."
- [27] Accordingly, we are satisfied that the trial court did not misdirect itself in accepting the evidence of the dying declaration and convicting the appellant.

The evidence was properly admitted, and the trial court's conclusion was supported by the facts and applicable legal authority.

SENTENCING:

[28] The appellant was sentenced to fifteen (15) years' direct imprisonment following his conviction for murder. The Regional Court imposed this sentence in terms of section 51(2)(a) of the Criminal Law Amendment Act 105 of 1997, which prescribes minimum sentences for serious offences. The appellant now appeals that sentence on the grounds that it is disproportionate, overly severe, and that the sentencing court failed to give adequate consideration to mitigating circumstances.

[29] In assessing this ground of appeal, it is necessary to reiterate the principle that sentencing is pre-eminently a matter within the discretion of the trial court. An appellate court will only interfere with a sentence if it is vitiated by a material misdirection, or if it is so severe that it induces a sense of shock. This principle was reaffirmed in **S v Rabie 1975 (4) SA 855 (A) at 857D-F**, where it was held that punishment must fit the crime, the offender, and the interests of society, and must be blended with a measure of mercy.

[30] The sentencing court considered both aggravating and mitigating factors. In mitigation, the appellant's counsel argued that he had dependants, a limited level of education, and had spent a substantial period in custody awaiting trial. The appellant was 39 years old at the time and had been in pre-trial detention for several years due to delays in the finalisation of the matter.

[31] However, the court found that the aggravating features significantly outweighed these factors. Chief among them was the seriousness of the offence: the

violent, intentional taking of a human life by stabbing a defenceless woman in the chest. The attack occurred in the deceased's own yard, a place where she ought to have felt safe. There was no evidence of provocation or justification.

- [32] The court further took into account the appellant's prior convictions, particularly one for assault with intent to do grievous bodily harm and escaping from custody. Although the prior offence occurred in 2016, it demonstrated a propensity for violence and a disregard for the rule of law.
- [33] The trial court was also entitled to consider the absence of remorse. Throughout the trial, the appellant denied the offence and maintained a version that was found to be false. In ***S v Matyityi* 2011 (1) SACR 40 (SCA)**, the court emphasised that genuine remorse is a key indicator of prospects for rehabilitation. The appellant's lack of contrition and dishonest defence weighed heavily against him.
- [34] In terms of the legislative framework, the prescribed minimum sentence for murder (where no substantial and compelling circumstances are found) is fifteen years' imprisonment for a first offender. This was the starting point for the sentencing court, which correctly directed itself to the test laid down in ***S v Malgas* 2001 (1) SACR 469 (SCA)** and later confirmed by the Constitutional Court in ***S v Dodo* 2001 (1) SACR 594 (CC)**.
- [35] The appellant bore the onus to show that substantial and compelling circumstances existed which would justify a departure from the minimum sentence. The court was not satisfied that such circumstances were present. The mitigating factors cited age, dependants, time spent in custody were considered but found not to tip the scales.

- [36] In **S v M M (SS 52/2022) [2024] ZAGPJHC 134**, the court reiterated that where the interests of society and the seriousness of the offence clearly outweigh the personal circumstances of the offender, minimum sentences must be enforced to reflect the need for deterrence and retribution.
- [37] The sentencing court also applied the triad in **S v Zinn 1969 (2) SA 537 (A)**, balancing the nature of the offence, the character of the offender, and the interests of the community. In the face of growing femicide and violent crime in South Africa, the court expressed that a clear message must be sent that violence against women will not be tolerated.
- [38] We find no misdirection in the reasoning of the trial court. The sentence imposed, though severe, is not disproportionate to the gravity of the crime and reflects both the letter and the spirit of the applicable legislation and case law.

CONCLUSION:

- [39] Having considered the full record, the evidence adduced, the applicable legal framework, and the arguments advanced on appeal, we are satisfied that the trial court exercised its discretion judiciously. The conviction rests on a dying declaration that was lawfully admitted, carefully evaluated, and supported by the surrounding circumstances. The appellant's identity as the perpetrator was proven beyond reasonable doubt.
- [40] As to sentence, we are similarly satisfied that the court a quo gave due consideration to all relevant factors. It weighed the appellant's personal circumstances against the seriousness of the offence and the broader interests of justice. The imposition of the minimum sentence was not only justified but necessary in the context of the offence and its impact on society.

[41] There is accordingly no basis for interference with either the conviction or the sentence.

ORDER:

[42] In the result, the following order is made:

1. The appeal against conviction is dismissed.
2. The appeal against sentence is dismissed.
3. The conviction for murder and the sentence of 15 (fifteen) years' direct imprisonment imposed by the Regional Court is confirmed.



MBOWENI AJ

ACTING JUDGE OF THE HIGH COURT

GAUTENG DIVISION, PRETORIA

I agree,



MOSOPA J

JUDGE OF THE HIGH COURT

GAUTENG DIVISION, PRETORIA

Date of Hearing : 03 September 2025

Date of Judgment : 07 October 2025

Counsel for the Appellant : **Adv van Wyk and Adv Augustyn**
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