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19 February 2026

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

**CASE NO: A224/2024**

In the matter between:-

**RHULANI NOBELA**

Appellant

and

**THE STATE**

Respondent

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**ORDER:**

- i) The appeal against conviction and sentence is dismissed.

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*This judgment is handed down by electronic circulation to the legal representatives of the parties via e-mail. The date of the judgment is deemed to be **19 February 2026**.*

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**JUDGMENT**

**FMM REID J (with KHUMALO J concurring)**

**Introduction**

[1] This is an appeal against both conviction and sentence handed down by the Regional Court, Benoni, on 1 November 2022. The appellant

was convicted of housebreaking with intent to rape (Count 1) and rape (Count 2) and sentenced to an effective term of ten years' imprisonment, in accordance with the provisions of the **Criminal Law Amendment Act** 105 of 1997 ("the CLAA"). Leave to appeal was granted on 15 November 2022.

- [2] The appellant's grounds of appeal relate to the reliability of the complainant's evidence, the alleged misdirection by the trial court in its assessment of the evidence, and the contention that the sentence imposed is shockingly inappropriate.

### **Legal framework**

- [3] The burden of proof rests squarely on the State to prove the guilt of the accused beyond reasonable doubt. This fundamental principle, deeply rooted in our common law and enshrined in section 35(3)(h) of the **Constitution of the Republic of South Africa**, 108 of 1996, ensures that an accused is presumed innocent until proven guilty.
- [4] The evaluation of evidence in criminal trials is governed by established principles, notably articulated in *S v Chabalala* 2003 (1) SACR 134 (SCA), where the Supreme Court of Appeal reaffirmed that a court must weigh all elements pointing to guilt against those indicative of innocence, considering probabilities and inherent strengths and weaknesses on both sides.

- [5] Where a witness is a single witness in respect of certain elements of the offence, the court must exercise caution, but such evidence may be sufficient for conviction if it is clear and satisfactory in all material respects (*S v Artman* 1968 (3) SA 339 (A)).
- [6] In matters involving sexual offences, the sentiments expressed in *S v Mudau* 2013 (2) SACR 292 (SCA) are particularly pertinent: rape constitutes a severe violation of bodily integrity and personal dignity, warranting firm judicial response within the framework of the law.

### **Evaluation of Evidence**

- [7] The appellant contends that the complainant's evidence was unreliable, contradictory, and not treated with the requisite caution. It was further submitted that the trial court erred by adopting an impermissible line of reasoning—namely, asking why the complainant would falsely accuse the appellant.
- [8] While it is correct that a court should not convict merely because an accused fails to provide a motive for false implication (see *S v Ipeleg* 1993 (2) SACR 185 (T)), a reading of the trial court's judgment in its entirety reveals that it did not rely on this reasoning as the sole basis for conviction. Rather, the court conducted a holistic assessment of all evidence, as mandated by *S v Singh* 1975 (1) SA 228 (N).
- [9] The complainant's account was materially corroborated by two

eyewitnesses, Nomsa Mokoena and Nkuna Ntaka, who testified to finding the appellant in the complainant's room, with his trousers lowered, while the complainant was naked and in distress.

- [10] Their evidence was consistent on the central facts, notwithstanding minor discrepancies on peripheral details such as the complainant's appearance or the presence of mud on her clothing. Such inconsistencies are not unusual and may even bolster credibility, as they reflect honest recollection rather than coached testimony (*S v Oosthuizen* 1982 (3) SA 571 (T)).
- [11] The medical evidence, provided by Nurse Lungiswa Makhamba, confirmed that the complainant had been sexually penetrated. The absence of physical injury does not negate rape, particularly given factors such as prior sexual activity and menstrual bleeding, as explained by the nurse.
- [12] The appellant's version—that he was invited by the complainant to stage a break-in to search for hidden money—was rightly rejected by the trial court as inherently improbable. It defies belief that the complainant would orchestrate such an event in the middle of the night, only to later scream for help and allege rape. This version was further undermined by the fact that the door was locked from inside, and the appellant was found on top of the complainant by independent witnesses.

[13] In line with *S v Van der Meyden* 1999 (1) SACR 447 (W), where the State's case is strong, coherent, and corroborated, and the defence version is irreconcilable with the evidence, the latter may be rejected as not reasonably possibly true.

[14] It follows that the appeal against the conviction cannot succeed.

### **Sentence**

[15] Sentencing is pre-eminently within the discretion of the trial court, and a court of appeal may only interfere where the sentence is vitiated by a material misdirection or is so disproportionate as to induce a sense of shock (*S v Rabie* 1975 (4) SA 855 (A); *S v Pillay* 1977 (4) SA 531 (A)).

[16] The appellant was convicted of rape read with section 51(2) of the CLAA, which prescribes a minimum sentence of ten years' imprisonment for a first offender unless substantial and compelling circumstances justify a lesser sentence.

[17] The trial court correctly considered the appellant's personal circumstances, including his age, employment history, and status as a first offender. However, as held in *S v Vilakazi* 2009 (1) SACR 552 (SCA), in cases of serious crime, personal circumstances recede into the background. The brutality of the offence—involving housebreaking, throttling, and rape in the presence of a young child—demands a

sentence that reflects societal condemnation and the need for deterrence.

[18] The period spent in custody awaiting trial was noted, but does not, in itself, constitute a substantial and compelling circumstance warranting deviation from the prescribed minimum (*S v Kruger* 2012 (1) SACR 369 (SCA)).

[19] No misdirection has been shown in the sentencing process. The effective sentence of ten years' imprisonment is consistent with the norms established by the CLAA and relevant appellate authorities.

### **Conclusion**

[20] In the result, the trial court's assessment of the evidence was thorough and free from material error. The conviction is based on credible, corroborated evidence that establishes the appellant's guilt beyond reasonable doubt.

[21] The sentence imposed is appropriate, proportionate, and in accordance with both statutory imperatives and judicial precedent.

[22] It follows that the appeal against the sentence cannot be successful.

[23] After careful consideration of the written heads of argument, the record of proceedings, and relevant legal authorities, this Court is not

persuaded that the trial court misdirected itself in any material respect.

The appeal is accordingly dismissed for the reasons set out above.

**Order**

[24] Accordingly, the following order is made:

- (i) The appeal against both conviction and sentence is dismissed.



**FMM REID J  
JUDGE OF THE HIGH COURT  
GAUTENG DIVISION, PRETORIA**

I agree



**NV KHUMALO J  
JUDGE OF THE HIGH COURT  
GAUTENG DIVISION, PRETORIA**

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**DATE OF ARGUMENT: 14 AUGUST 2025**

**DATE OF JUDGMENT: 19 FEBRUARY 2026**

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