IN THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION, MAHIKENG

Not Reportable

Case no: CA 54/2022

In the matter between:

THABANG LOUIS MANYANE **APPELLANT**

and

THE STATE **RESPONDENT**

Neutral citation: *Manyane v The State* (CA 54/2022) [2026] ZANWHC 21 April 2026.

Previous Coram: Laubscher AJ and Mamana AJ, 6 June 2025

Coram: Reddy J and Wessels AJ as constituted by the Judge President to expedite the hearing of this backlog appeal.

Reserved: 19 March 2026

Delivered: This judgment was electronically circulated to the parties' legal representatives by e-mail and released on SAFLII. The date and time of hand down are deemed to be 21 April 2026 at 12h00.

Summary: Criminal appeal — contravening s 3 of the Prevention and Combating of Corrupt Activities Act 12 of 2004 (PRECCA) -conviction by regional court — whether State proved guilt beyond reasonable doubt — material contradictions in State's evidence — cell register evidence supportive of

appellant's version — conflict of interest affecting conduct of defence — appeal upheld — conviction and sentence set aside.

On appeal from: Regional Court, Schweizer-Reneke (sitting as court of first instance):

1 The appeal against conviction is upheld.

2 The conviction of the appellant in the Regional Court, Schweizer-Reneke (Case No RC 43/15 A) is set aside.

3 The sentence of three years' direct imprisonment imposed on 26 April 2021 is set aside.

JUDGMENT

REDDY J (WESSELS AJ concurring):

Introduction

[1] This is an appeal from the Regional Court, Schweizer-Reneke (the trial court), on conviction. The appellant, Mr. Thabang Louis Manyane, a former police official, was charged with contravening s 3 of the Prevention and Combating of Corrupt Activities Act 12 of 2004 (PRECCA). The charge alleged that on or about 25 April 2015, the appellant unlawfully accepted a gratification of R1 000 from Mr Samuel Thibello Machekane (the complainant) to act in a manner amounting to the illegal or biased exercise of his duties as a police officer, specifically to avoid detaining the complainant.

[2] The trial court convicted the appellant on 29 January 2021 and, on 26 April 2021, sentenced him to three years' direct imprisonment. The appellant applied for leave to appeal. The trial court granted leave to appeal against the conviction but dismissed the application in respect of the sentence. Consequently, this appeal proceeds only against the conviction.

Background facts

[3] The events leading to the charge took place on the night of 25 April 2015. The complainant was arrested for driving under the influence of alcohol. It is common cause that the appellant, who was a police constable at the time, was on duty together with Constable Seitshiro. The two arrested two suspects: the complainant (arrested by the appellant) and a Mr. Sereho (arrested by Constable Seitshiro). They were taken to the Bloemhof Police Station and later to Christiana Hospital for blood samples to be collected.

[4] The State's case, in essence, was that the appellant did not detain the complainant as required. Instead, the appellant took the complainant to his home, then to Mr. Pitso Borole's home to borrow R500, and later to the complainant's own home, where the complainant collected a further R500 from his wife. The following day, the complainant paid bail of R500. On 29 April 2015, the complainant participated in a trap operation during which the appellant allegedly accepted R500 in cash and was arrested.

[5] The appellant's version was that he never accepted a bribe. He testified that on the night of the arrest, after returning from Christiana Hospital, the complainant asked how much bail would be. The appellant informed him it was R500. The complainant asked to stop at an ATM, but it was not working. At the police station, the complainant asked the appellant to lend him R500 for bail. The

appellant did so. The complainant was then handed over to the charge office commander, Constable Mmusi. A few days later, the complainant called to ask about repaying the R500. They met at Standard Bank, and as the complainant handed over the money, the appellant was arrested.

Grounds of appeal

[6] The appellant appeals against his conviction on the following grounds:

(i) The trial court erred in failing properly to evaluate the evidence of the State witnesses, which was inconsistent, contradictory, and improbable.

(ii) The trial court failed to appreciate that the inconsistencies and low evidential value of the State's case meant that the State had not proved its case beyond a reasonable doubt.

(iii) The trial court failed properly to consider a potential ethical conflict that arose when it emerged that the appellant's former attorney, Mr. Schoeman, had previously been consulted by the complainant.

The test on appeal

[7] On appeal from the trial court's findings of fact, this Court should bear in mind that the trial court was in a better position than this Court to form a judgment, having observed the witnesses and being steeped in the atmosphere of the trial[1]. This Court will normally accept the trial court's factual findings unless there is some indication of error.[2]

[8] In *S v Hadebe and Others*[3] the Supreme Court of Appeal restated an appellate court's discretion as follows:

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[1] See Schmidt and Rademeyer, Law of Evidence 3-40.

[2] *R v Dhlumayo* 1948 (2) SA 677 (A) at 696 and 705.

[3] 1997 (2) SACR 641 (SCA) at 645e – f.

"Before considering these submissions, it would be as well to recall yet again that there are well-established principles governing the hearing of appeals against findings of fact. In short, in the absence of demonstrable and material misdirection by the trial Court, its findings of fact are presumed to be correct and will only be disregarded if the recorded evidence shows them to be clearly wrong."

[9] This salutary principle was restated in S *v Naidoo and Others*[4]

'In the final analysis, a court of appeal does not overturn a trial court's findings of fact unless they are shown to be vitiated by material misdirection or are shown by the record to be wrong.'

Evaluation of the evidence

[10] The assessment of the evidence must be measured against the universal standard, namely, whether the guilt of an accused has been proved beyond a reasonable doubt. In *S v T*[5] the burden of proof in a criminal trial is stated as follows:

'The State is required, when it tries a person for allegedly committing an offence, to prove the guilt of the accused beyond a reasonable doubt. This high standard of proof – universally required in civilized systems of criminal justice – is a core component of the fundamental right that every person enjoys under the Constitution, and under the common law prior to 1994, to a fair trial. It is not part of a charter for criminals and neither is it a mere technicality. When a court finds that the guilt of an accused has not been proved beyond reasonable doubt, that accused is entitled to an acquittal, even if there may be suspicions that he or she was, indeed, the perpetrator of the crime in question. That is an inevitable consequence of living in a society in which the freedom and the dignity of the individual are properly protected and are respected. The inverse – convictions based on suspicion or speculation – is the hallmark of tyrannical systems of law. South Africans have bitter experience of such a system and where it leads to.'

[4] 2003 (1) SACR 347 (SCA) in paragraph [26]

[5] 2005 (2) SACR 318 (E), at para 37.

[11] The correct approach to the evaluation of evidence in a criminal trial was enunciated by the Supreme Court of Appeal as follows in *S v Chabalala*[6]

'The trial court's approach to the case was, however, holistic and in this it was undoubtedly right: S v Van Aswegen 2001 (2) SACR 97 (SCA). The correct approach is to weigh up all the elements which point towards the guilt of the accused against all those which are indicative of his innocence, taking proper account of inherent strengths and weaknesses, probabilities and improbabilities on both sides and, having done so, to decide whether the balance weighs so heavily in favour of the State as to exclude any reasonable doubt about the accused's guilt. The result may prove that one scrap of evidence or one defect in the case for either party (such as the failure to call a material witness concerning an identity parade) was decisive but that can only be an *ex post facto* determination and a trial court (and counsel) should avoid the temptation to latch on to one (apparently) obvious aspect without assessing it in the context of the full picture presented in evidence
'

[12] We have carefully reviewed the record of the proceedings. The trial was protracted, with witnesses testifying over several days between 2018 and 2020.

[13] The central issue is whether the State proved beyond a reasonable doubt that the appellant accepted unlawful gratification as contemplated in s 3 of PRECCA, rather than receiving repayment of a lawful loan. To reach this finding, an assessment of the mosaic of proof presented in the trial court is required. To this end, we assess the strands of evidence that constituted the state's case, including a procedural irregularity that may have vitiated the appellant's right to a fair trial. We now proceed to assess each of these within the prism of the discretion we are clothed with, sitting as an appellate court.

[6] 2003(1) SACR 134 (SCA) at para 15.

The trap operation and the recording device

[14] Warrant Officer Mosala of the Hawks testified about the trap operation on 29 April 2015. He provided the complainant with a recording device, shaped like a key holder, and instructed him to use it. Notably, the complainant did not activate the device because, he said, he was scared. Therefore, the evidence of the conversation during the trap transaction relied entirely on the complainant's account. Consequently, the State's case regarding what transpired during the meeting rests entirely on the complainant's account, without any independent or objective corroboration.

The credibility of the complainant

[15] The complainant's evidence was beset with improbabilities. He initially denied being drunk on the night of his arrest, despite the medical report (Exhibit D) indicating he was under the influence. He eventually conceded he had consumed alcohol but insisted he was not drunk. More significantly, he conceded during cross-examination that he was willing to pay a bribe to avoid spending the night in the cells. He stated: 'I was willing to pay corruption to save myself … from spending a night in the cells.' He also conceded that he did not know that paying a bribe was unlawful. This admission goes to the very heart of his motive and reliability.

Contradictions relating to the alleged gratification

[16] There were material contradictions regarding the amount allegedly demanded and paid. The complainant's wife, Ms. Makwathle, testified that the complainant arrived at their home in the early hours of the morning, asking for R1 000. She gave him R500 and his bank card. Mr. Borole testified that the complainant borrowed R500 from him for 'bribery'. The complainant initially testified that the bribe was R1 000, but later suggested that the R500 from his

wife and the R500 from Mr. Borole made up the R1 000. When the trap was set, the complainant was given R500 by the police. The inconsistency between R1 000 and R500, and whether the money was for a bribe or a loan, was never satisfactorily resolved.

The cell register evidence

[17] One of the most compelling pieces of evidence in the appellant's favour is the cell register (Exhibit B). The register shows that the complainant was recorded as a detainee on the night of 25 April 2015, under entry number 206. Constable Mmusi, the charge office commander, testified that he recorded the complainant in the cell register. He further testified that after the suspects returned from Christiana, he handed the cell keys to the appellant to take the suspects to the cells. The appellant returned the keys, and Constable Mmusi confirmed that the complainant was supposed to be in the cells. The occurrence book (Exhibit A) records that the cells were visited hourly and that 31 detainees were present. Notably, there is no record that the complainant was ever signed out of the cells. The fact that the complainant's details remained in the cell register without any 'signed out' entry strongly supports the appellant's version that the complainant was, in fact, placed in the cells.

The issue of the cell keys

[18] Constable Mmusi testified that he gave the cell keys to the appellant. If the appellant intended to release the complainant unlawfully, it would have been a remarkably bold act, especially in the presence of other officers. More importantly, Constable Mmusi confirmed that the appellant returned the keys. There is no evidence that the appellant had access to the cells after that point. This undermines the State's case that the appellant removed the complainant from custody.

The conflict of interest

[19] The appellant's former attorney, Mr. Schoeman, withdrew from the proceedings on 16 July 2020, after it emerged during the trial that the complainant had consulted Mr. Schoeman's firm regarding a civil claim against the police stemming from the drunken driving arrest, and also regarding the bribery complaint. The complainant confirmed this consultation. Mr. Schoeman acknowledged that he should have withdrawn earlier, stating that he 'made an error of judgment at that stage by not withdrawing'. This is a serious irregularity. While the trial court was not at fault, the fact that the appellant's own attorney had a prior professional relationship with the complainant, even if not a full retainer, created a potential conflict of interest that could have affected the conduct of the defence.

[20] Section 35(3) of the Constitution failsafe every accused the right to a fair trial, including the right to legal representation. Subsumed within this right is the right to legal representation free from conflicting interests. *Ex facie* the record, it cannot be conclusively found that this irregularity, standing alone, would have vitiated the proceedings, and it is superfluous to decide this question. What it simply does is reinforce our concern about the fairness of the trial and lend further credence to the conclusion we reach from the evidence.

Inconsistencies in the State's case

[21] The State witnesses' evidence was inconsistent on several key points. Constable Seitshiro testified that he did not see what happened to the complainant after they returned from Christiana. He said the appellant left with the complainant and did not return. Constable Mmusi, however, testified that the appellant returned the cell keys and that the complainant was not with him at that time, meaning the complainant was already in the cells. These two versions are irreconcilable. If the appellant left the police station with the complainant, as

Constable Seitshiro suggested, then the complainant could not have been in the cells. If, as Constable Mmusi said, the appellant returned the keys after locking the complainant in the cells, then the complainant was in the cells.

The State's failure to prove the gratification

[22] The State was required to prove that the appellant accepted a gratification in order to act in a manner that amounted to the illegal exercise of powers, duties, or functions arising out of a statutory obligation. In other words, the State had to prove a corrupt agreement. The complainant's evidence was that the appellant demanded R1 000 to make his 'problems go away'. The appellant's evidence was that he lent the complainant R500 for bail. The State's case was almost entirely dependent on the complainant's word, which was undermined by his own admissions of willingness to pay a bribe and the absence of any independent corroboration, such as the recording device. The fact that the complainant remained registered in the cell register without being signed out provides strong objective support for the appellant's version that the complainant was detained.

Assessment of the State case

[23] The State's case was predicated almost entirely on the uncorroborated evidence of the complainant, whose credibility was seriously impugned. On certain aspects, the complainant was a single witness. Section 208 of the CPA empowers a court to convict an accused person on the evidence of a single competent witness.

[24] It has been authoritatively decided that '[t]he absence of the word "credible" [in the section] is of no significance; the single witness must still be credible. . .'.[7] When evaluating evidence of a single witness, the trial court is

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[7] *S v Sauls and Others* 1981 (3) SA 172 (A) at 180D.

obliged to exercise caution. In *S v Rugnanan*,[8] the Supreme Court of Appeal made the following remarks:

'. . . The cautionary rule does not require that the evidence of a single witness must be free of all conceivable criticism. The requirement is merely that it should be substantially satisfactory in relation to material aspects or be corroborated.'

[25] The complainant's evidence failed to meet the cautionary threshold. The objective evidence, particularly the cell register, supports the appellant's version and is inconsistent with the State's case. What appears to be fatal to the State's case is the lack of proof that the money changed hands without proof that it constituted unlawful gratification linked to an abuse of authority; this is insufficient to sustain a conviction under s 3 of PRECCA.

[26] The trial court appears to have accepted the complainant's evidence largely on the basis that he was a credible witness. However, given the contradictions in his evidence, his own admission of willingness to engage in corruption, and the objective evidence from the cell register, this finding is, in my view, misplaced. The court misdirected itself in failing properly to evaluate the inherent improbabilities in the State's case and in not giving sufficient weight to the evidence favourable to the appellant.

Conclusion

[27] Having considered the totality of the evidence, we are not satisfied that the State proved the appellant's guilt beyond a reasonable doubt. We accept the appellant's version as reasonably possibly true and reject the complainant's evidence as unreliable. What is more, the trial court failed to resolve the mutually

[8] [2020] ZASCA 166 para 23.

destructive versions of Constable Seitshiro and Constable Mmusi, a misdirection that, independently, impugns the conviction[9].

[28] The complainant's own admission that he was willing to pay a bribe, the material contradictions regarding the amounts allegedly demanded and paid, and the objective cell register evidence, none of which was satisfactorily explained by the State, all point irresistibly to that conclusion.

[29] The appeal against conviction must therefore succeed. The conviction is set aside, and the sentence falls away.

[redacted]

A REDDY
JUDGE OF THE HIGH COURT
NORTH WEST DIVISION, MAHIKENG

I, agree

[redacted]

M WESSELS
ACTING JUDGE OF THE HIGH COURT
NORTH WEST DIVISION, MAHIKENG

[9] *Stellenbosch Farmers' Winery Group Ltd. and Another v Martell & Cie SA and Others* (427/01) [2002] ZASCA 98; 2003 (1) SA 11 (SCA) at para 5.

Appearances:

For the appellant:	MR E Setumo
Instructed by:	Legal Aid Board
	Mahikeng
For the respondent:	Adv K.E Mampo
Instructed by:	Director of Public Prosecutions
	Mmabatho