

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

Case Number: SS053/2024

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: YES
21/4/2026	
DATE	SIGNATURE

In the matter between:

THE STATE

v

DLADLA, BUSISIWE

Accused 1

DLADLA, SINETHEMBA TONBRIGHT

Accused 2

DLADLA, CEBISE OLPHA

Accused 3

Coram: YACOOB J

Heard: 28 July 2025 – 09 September 2025, 25 September 2025

Delivered: 21 January 2026, revised 21 April 2026

JUDGMENT

INTRODUCTION

- [1] It is common cause that, on 9 September 2022, Mr Mzwandile Konki was taken to the home of accused number one, Ms Busisiwe Dladla, and tortured, while his friends and relatives were asked to pay money to relieve him from the ordeal he was undergoing. It is also common cause that he died as a result of his injuries. It is common cause that what happened was the result of a money-lending transaction between Mr Konki and Ms Dladla. That these issues are common cause arises from a combination of the admissions in terms of s220 of the Criminal Procedure Act ("CPA")¹ and the evidence.
- [2] The three accused persons are Ms Busisiwe Dladla, accused number one, her daughter, Ms Sinethemba Dladla, accused number two, and Ms Cebisile Dladla, accused number three, who is Ms Busisiwe Dladla's sister. For convenience and to avoid confusion, I refer to accused number one as Ms Dladla, accused number two as Sinethemba, and accused number three as Cebisile.
- [3] The three Dladlas were each charged as follows:
- a. Two counts of kidnapping;
 - b. Contravention of s 4(1)(a), read with ss 2 and 3 of the Prevention of and Combating of Torture of Persons Act ("PCTA"),² (count 3);
 - c. Murder read with s 51 of the Criminal Law Amendment Act,³ (count 4);
 - d. Extortion read with the provisions of s 51(2) of the Criminal Law Amendment Act (count 5 and 6), and
 - e. Contravention of s 4(b)(i)/(ii) (money-laundering) read with ss 1, 7A and 8(1) of the Prevention of Organized Crime Act ("POCA")⁴ (count 7).

The State relied on common purpose among the three accused.

¹ Act 51 of 1977.

² Act 13 of 2013.

³ Act 105 of 1997.

⁴ Act 121 of 1998.

- [4] The three accused pleaded not guilty to all charges. At the close of the State case, an application for discharge was brought on behalf of accused numbers two and three only. The application was dismissed as far as Sinethemba was concerned. The application succeeded for Cebisile on counts one to six, and she remains only to answer the charge of money-laundering encapsulated in count 7.
- [5] The State called 9 witnesses to prove the charges:
- a. Ms Nocawe Nkonki;
 - b. Mr Steven Buti Bakers;
 - c. Ms Siyasanga Tyhalithi;
 - d. Ms Shebu November;
 - e. Ms Julia Moretlwe;
 - f. Mr Zakariah Mokone;
 - g. Mr Percival Louw;
 - h. Dr Monzambe, and
 - i. Sergeant Modupe
- [6] The Defence called six witnesses:
- a. Ms Busisiwe Dladla;
 - b. Ms Sinethemba Dladla;
 - c. Mr S Ndaba;
 - d. Mr Raheen Matola;
 - e. Mr Njabulo Mvelase, and
 - f. Ms Fanny Hendricks.
- [7] The Court called for further evidence regarding a certain issue, arising from the version of accused number one, and this was presented on affidavit.

THE STATE'S EVIDENCE

- [8] Ms Nkonki is the sister of the deceased. She testified that her brother called her on 09 Sept 2022 around lunchtime to ask her to help him pay a debt. She testified that he told her he was owing people and that they were injuring him. She ignored the request at first, but he called again and begged her to help. She could hear he was in pain. He had called her from a number later established to be that of Ms Dladla.
- [9] At some point later in the afternoon Ms Dladla called her and asked her why she would not pay and Ms Nkonki asked her why she doesn't stop torturing her brother and take his car instead. Ms Nkonki called Mr Konki's partner Ms Tyhalithi and she confirmed that the couple owed money to Ms Dladla. Ms Tyhalithi also told her about a previous event, where Mr Konki had been taken away to obtain payment and Ms Nkonki asked her why the couple had not told her.
- [10] At some point, around 15h00, she called the number to say "please wait with the torturing" since she is sending the money. She was told by the person who answered that "the other people" were not there so he could not answer her request. Eventually, after 17:00, she paid R9 700, which is the amount Ms Dladla had told her to pay.
- [11] Ms Nkonki testified that she paid in order to try and save her brother's life. Ms Dladla sent her a picture of a Capitec Bank card to give her the details of an account into which to pay. The card was for Sinethemba's account. After the payment was made she asked Ms Dladla to drop her brother off with her, but Ms Dladla did not do so.
- [12] Eventually Ms Nkonki heard from Ms Tyhalithi that they were going to hospital. Later she heard her brother was dead. Ms Nkonki had children with her, so they were only going to see him in the morning at the hospital.
- [13] Ms Nkonki further testified that Ms Dladla told her if they go to complain to the police, the police know Ms Dladla, implying that she would be protected, and that if they try and open a case, 'they' know where the family live and will finish them

off. According to Ms Nkonki, Ms Dladla told her this when she called Ms Dladla to tell her of Mr Konki's demise.

- [14] The second state witness, Mr Bakers, was a scholar transporter at Sharonlea school, as was Mr Konki. He did not see what happened on the day that his colleague was kidnapped and tortured but testified about the contents of the video footage outside the school, which was also admitted as evidence. He had been asleep in his vehicle outside the school and woke up to find that Mr Konki's car was still there, but Mr Konki was not and was late for his transport duties. Mr Bakers telephoned Mr Konki and someone else, a male person, answered and told him that Mr Konki was at Vosloorus. Mr Bakers testified that on the video footage he saw Mr Konki being taken from his vehicle by four men, that there was some kind of scuffle, and that it was evident that Mr Konki did not want to go. It is common cause that Ms Dladla was present in front of the school at the time, and that the men who went and fetched Mr Konki from his vehicle were with Ms Dladla. Mr Bakers was a little confused about which vehicle was parked where but it was not material because in any event he did not personally see Mr Konki being taken. His evidence was not of material assistance to the court, save to the extent that he telephoned Mr Konki and another man answered, and said Mr Konki was in Vosloorus.
- [15] Ms Tyhalithi, Mr Konki's partner, testified that she knew Ms Dladla, and they (she and Mr Konki) had borrowed money from her twice. The first time, in March 2022, they had borrowed R5 000 and the second time, in April 2022, R10 000. The first time they paid back R7 500 at the end of the same month in which they had borrowed the R5 000. The second amount they could not pay back the full amount plus interest (total R15 000) in the required time, so they attempted to agree to pay by instalment. This was the source of the problem which resulted in Mr Konki's death. When they attempted to negotiate with Ms Dladla, they were told that the amount to be paid back attracted further interest and was now R30 000 because the money was now in their hands and not Ms Dladla's, and was not earning anything for her. They were desperate and agreed to this, on the basis that they would pay back R5 000 per month.

- [16] They had paid a total of R17 000 by August but in September Ms Dladla said she wanted the full balance and was not happy with being paid back in bits and pieces. According to Ms Tyhalithi, Ms Dladla conveyed this to them on 5 September, and on the same day four men kidnapped Mr Konki and drove around with him all day. They took him from Bavitana complex where, according to Ms Tyhalithi, Ms Dladla's "other brother" resides and Mr Konki was dropping off schoolchildren. The men were threatening Mr Konki and demanding money. According to Ms Tyhalithi, Mr Konki described the four men as Ms Dladla's brothers, also it is unclear whether this meant brothers in the sense of blood relations or associates.
- [17] The three of them (Ms Tyhalithi, Mr Konki and Ms Dladla) agreed that the money would be paid on 9 September. On the afternoon of 9 September, Ms Dladla called Ms Tyhalithi from Mr Konki's phone and said she was with him and wants the money and would only release him when the money was paid. Ms Tyhalithi said she could hear Mr Konki being tortured and Ms Dladla asked her if she could hear that and whether she wanted him to die. Ms Dladla called Ms Tyhalithi repeatedly to ask for the money and say that they will continue torturing Mr Konki if the money was not paid.
- [18] Ms Tyhalithi asked friends and family for help. Their traditional healer, to whom she referred as "Shegu" but it is common cause is Ms Shebu November, who also testified, gave R10 000 – she had already been called by Mr Konki himself. Ms Tyhalithi knew that Ms Nkonki gave R9 700, and it is only after that that they released him. Ms Tyhalithi said that the R10 000 was paid by Ms November into Mr Konki's account – he had had his bank card with him so that the money could be withdrawn. Ms Nkonki had paid into Ms Dladla's child's account. She knew about Ms Nkonki's payment because they had been in touch with each other during that day.
- [19] When Mr Konki was released, he arrived home around 19h00 in the evening, he was brought home by a security guard from the school because he was in pain and could not drive. The guard brought Mr Konki in Mr Konki's car. Ms Tyhalithi

was outside when they arrived because she heard the vehicle drawing up. Mr Konki disembarked from the front passenger seat.

- [20] Mr Konki told Ms Tyhalithi that he had been tortured. He described having had plastic put over his head, his hands tied, and water poured over him. Mr Konki also complained of pains in his stomach. He told Ms Tyhalithi that four men came to the school in a white Avanza, they had guns, and Ms Dladla was also there in her own Mercedes Benz. The men forced him to go with their firearms. They were the same men who had taken him on 5 September. While he was telling her all this, Ms Dladla called and threatened that if they went to the police, she knows where they live and she will kill them all.
- [21] Since Mr Konki was complaining about pain, Ms Tyhalithi took him to the hospital, where he later died.
- [22] Ms Tyhalithi said that the money was borrowed to fix the car used to transport schoolchildren. It was put to Ms Tyhalithi that the money borrowed was R15 000 not R10 000 but Ms Tyhalithi was very clear about the amounts and how they were calculated. It was also put to her that the money was borrowed because her mother passed away and she had to go to the Eastern Cape, but Ms Tyhalithi said that her mother died in 2018. Apart from this, the bulk of Ms Tyhalithi's evidence is common cause – the disputes are whether Mr Konki was kidnapped on 5 September, and whether Ms Dladla participated in the events of 9 September voluntarily or under compulsion.
- [23] It was put to Ms Tyhalithi that she was told by Ms Dladla that the money belongs to a person called Nathi and she denied this. Ms Tyhalithi said that when they wanted to borrow a large amount (the R10 000), Ms Dladla said she would have to speak to "Thami", but never mentioned anyone called "Nathi". It is not disputed that Thami is Ms Dladla's life partner. When they borrowed the R10 000 they had to go to fetch it the day after the day on which they made the request, because it was a large amount. Ms Dladla provided it to them in cash and they went and fetched it at her residential complex. It was put to Ms Tyhalithi that after the R10 000 cash was collected, a further R5 000 was transferred into her account. She denied that.

- [24] It was also put to Ms Tyhalithi that she asked Ms Dladla to sell a vehicle to pay off the money and that that did not work. She denied that this happened. It was also put to her that the person called Nathi was pressuring Ms Dladla to get back his money. Ms Tyhalithi denied knowing anything about this, or that Ms Dladla mentioned it. It was submitted to the court that Ms Dladla's bank account would be produced to show both the transfer of the R5 000 to Ms Tyhalithi and that the amounts Ms Tyhalithi said had been paid back were not paid. The accounts were eventually produced by the State and did not fully support Ms Dladla's version.
- [25] The fourth state witness, Ms Shebu November, was the traditional healer who assisted Mr Konki by depositing R10 000 into his account. She testified that he called her, told her he was being assaulted, and asked her to pay. During the call he screamed and hung up the phone. He was speaking frantically or urgently – fast and loud. He told her to deposit the money into his account. He told her he needed R10 000 and she sent a friend to deposit the money. She deposited R9400 and R600. She would not have deposited the money if Mr Konki had not been being assaulted.
- [26] Ms Moretlwe was the next witness. She is a sergeant in the South African Police Services. She testified as to what Ms Tyhalithi told her when she arrived at the hospital after receiving a report of murder. Ms Tyhalithi told her that Ms Dladla was the person who had taken Mr Konki and tortured him. They went to Ms Dladla's address and did not find her, but she later came to the police station, at which point she was arrested. She did not give any substantive statement and did not mention the person Nathi or any other people who might have been responsible. Nor did she say that she had been forced to participate in what happened.
- [27] Mr Mokone, who testified next, was the security officer at Sharonlea school on the evening of 9 September. He testified that while he was on his way to report for duty, he saw Mr Konki walking around the corner of Cypress and Mahogany streets about 70 metres from the school. Mr Konki was having difficulty walking and Mr Mokone gave him a lift to his car. Mr Konki told him he had been abducted and assaulted. Mr Mokone took Mr Konki home in Mr Konki's vehicle. The only

cross-examination directed to Mr Mokone was to clarify which seat Mr Konki was sitting in. The response was that he was in the first row behind the driver (the vehicle was a people-carrier with multiple rows of seats).

- [28] Mr Louw from Capitec Bank was the next witness. He testified about various types of bank accounts and transactions that Capitec provides, and about the patterns they look out for that raise a suspicion of money-laundering. He also testified about the specific contents of Capitec bank statements admitted into evidence.
- [29] Mr Louw confirmed on Sinethemba's bank statement the receipt of R9 700 on 09 September and then that R500 was sent out as a "cashsend", a way of sending money that does not identify the recipient. R9 200 was transferred to Cebisile. From Cebisile's account an amount of R10 000 was then paid to a person with a reference of Tshauki. An account from Capitec which received the money was identified as Mr Themba Chauke, from where an amount of R3 000 and R7 000 was again moved out. Mr Louw confirmed the receipt of the R10 000 from Ms November on Mr Konki's account, and showed various transfers, withdrawals, "cash send" and spend amounting to R9760 thereafter. It is not disputed that the transactions amounting to that much was taken from Mr Konki's account towards the alleged debt owing. Of the money which left Mr Konki's account, an amount of R3000 was transferred to a Crosby Zikalala. There was no evidence of any payment to a person called Unathi or Nathi Buthelezi, who Ms Dladla alleges is the "owner of the money" that was lent.
- [30] Mr Louw testified that as a forensic investigator they are asked to look out for money behaviour that may be an indication of money laundering. This included "layering", which is moving funds through different transactions to obscure their origin. Mr Lebea, who appeared for the three accused persons, criticised the evidence about indications of money laundering as simply common sense and not specialised expert evidence. There is no merit in that criticism as sometimes expertise involves the application of common sense together with experience and specific knowledge. Mr Louw conceded that the kinds of money movement that forensic investigators look out for are only indications which then would

require further investigation, and that money laundering is not the only conclusion to be drawn from the existence of that kind of money behaviour, although it is a possible one.

- [31] After Mr Louw's testimony, Mr Lebea criticised the state for not assisting Ms Dladla to produce her own bank statements, but, at the same time, declined to provide Ms Dladla's bank details to allow this to happen. At this point he also requested that footage be obtained from Bavitana complex, from where Mr Konki was allegedly taken on 5 September, and from the school at night on Mr Konki's return.
- [32] The next state witness was Dr Monzambe who treated the deceased when he was taken to the hospital. He had no independent memory of that night, but had to testify with reference to the notes made in the patient file. His evidence was simply regarding the injuries recorded and the treatment, and the events at the hospital leading up to Mr Konki's death. It was evident that the death was a result of the injuries.
- [33] The last state witness was the investigating officer, Sergeant Modupe. She testified that the first time Ms Dladla was arrested the matter was not placed on the roll because the prosecutor was of the view that more investigation was needed and complained that the evidence was hearsay. Her commanding officer told her that he had taken Ms Dladla's cellphone from her in the cells. Sgt Modupe went to Ms Dladla's home to get the pin number or password from her, which she gave. She opened the phone with the password and looked at the photos on the phone, looking for photos of the assault. She found them in the recycle bin, where they would be if they had been deleted. These are the photos which it is common cause are Mr Konki at the time of the assault. Sgt Modupe then restored the photos (transferred them out of the recycle bin into the photo gallery). She took the phone to Brixton so that the information could be downloaded.
- [34] Sgt Modupe also looked at the WhatsApp messages on the phone, and found that photos had been sent to a person identified on the phone as Cne, who it is common cause is Sinethemba. Sgt Modupe testified regarding the content of

WhatsApp messages found on the phone, particularly those between Ms Dladla and her daughter, Sinethemba. There was also a voice note which was not put before the court because, according to Sgt Modupe, it was not retrievable. There was a discussion between the two after Ms Dladla sent Sinethemba pictures of Mr Konki being beaten.

- [35] There is a dispute about the meaning of those messages which are in isiZulu. However, at the time of Ms Modupe's evidence there was no dispute with the interpretation, and Ms Dladla clearly understood English and could have raised an objection. Mr Lebea objected to some interpretation but at the same time asserted that he could not be specific because he does not speak isiZulu. The court had to get in the interpreter's supervisor to listen to the recording and check, and the interpretation was confirmed. In the context and the timing, I am satisfied that it was correct.
- [36] After the pictures of Mr Konki appeared in the WhatsApp conversation, there is a sticker of a person laughing, then a message saying "Shubile" which means something along the lines of "hectic" or "it's happening" or "it's going down". Obviously interpretation is a question of context and is not always an exact science. This message was from Ms Dladla. Sinethemba responded with an exclamation and by saying they beat him up and Ms Dladla responded with a laughing sticker and that he "shit himself" or defecated, which is the interpretation by the court interpreter of the word "boshelile". Sinethemba, responded to her mother's messages with laughing emojis.
- [37] Sgt Modupe then described obtaining the footage from the school and taking it to the relevant office to make a photo album. She was unable to obtain the footage of the evening when Mr Konki had been dropped off. She had not originally obtained it because the evidence given to her had been that Mr Konki was not dropped off at the school itself. She had also obtained footage from Ms Dladla's residential complex, Northgate Heights, which showed the convoy of the Avanza and Mercedes Benz arriving at the complex and leaving in the evening.

- [38] Sgt Modupe testified that Ms Dladla never mentioned Mr Nathi Buthelezi at any point, nor did either of the other accused. She testified that after Mr Buthelezi was mentioned during the hearing, she was provided with a picture of an identity book of a person called Dalokwakhe Nkosinathi Buthelezi. She had approached the Department of Home Affairs to verify whether the person is deceased as was suggested but they had requested the original identity document. Apparently there were concerns about the authenticity of the copy. At this point the court made it clear that a witness from home affairs was required to verify to the court why an identity number could not be checked on their system without the original document.
- [39] Sgt Modupe testified that, after receiving the details of Mr Buthelezi, she searched for bank accounts using his identity number. Bank statements obtained from ABSA demonstrated that the person only had a savings account with less than R1000 in it during the relevant year, 2022. ABSA had no indication that the person was deceased.
- [40] Sgt Modupe then testified that she had obtained Ms Dladla's bank account statements using Ms Dladla's identity number. It is unclear why that had not been done earlier. However, since Ms Dladla herself had requested, through her counsel, that her statements be obtained, there could be no difficulty admitting them. The statements for 2022 demonstrated a turnover of over R1 million. There were no payments or cashsends to any person who could be identified as Mr Buthelezi. There was, however, a R5 000 payment to Mr Konki in April 2022.
- [41] Sgt Modupe then testified regarding the contents of Ms Dladla's telephone, which were put up on a slideshow in the court. There were pictures of Mr Konki being tortured, as well as a picture of a cashsend by Sinethemba on 9 September. On 11 August 2022 there is a screenshot of a message to a number belonging to Mr Konki saying "Kusiza Ungekhawana", translated as "Morning will come and you won't be there", as well as a number of other intimidatory messages.
- [42] There was a payment notification of R7 000, as testified by Ms Tyhalithi, dated 5 September 2022. In addition, there were various pictures of Capitec bank cards, including that of Sinethemba and a Mr QP Zondi.

- [43] Sgt Modupe also led evidence of the video footage at Sharonlea school, which shows a group of men going to Mr Konki's vehicle, a discussion or dispute, and him going with them to their vehicle. No firearms are visible in the footage. Ms Dladla is in the picture, but she did not approach Mr Konki's vehicle. There was also footage of Ms Dladla's complex. The owner of the Avanza was traced through the registration number, as Mr MP Lukhele, who Sgt Modupe was unable to find.
- [44] In cross-examination Mr Lebea suggested that there had been inadequate investigation and that Sgt Modupe had concocted evidence to incriminate Ms Dladla. None of these suggestions had any basis, nor were they credible. Sgt Modupe stood up well to cross-examination and I am satisfied with her evidence. No investigation can ever be perfect, whether from the point of view of the prosecution or of the defence.
- [45] Sgt Modupe testified that she attempted to get the footage from Bavitana complex of the first kidnapping, but there was none. She repeated what she recollected was in the voice note from Sinethemba to Ms Dladla. It was put to her that Sinethemba would deny she said that.
- [46] Regarding the payment of the R7 000, it was put to Sgt Modupe that Ms Dladla would testify that Ms Tyhalithi sent it on the day that they were consulting with a lawyer, to show that the lawyer gave them money. However, this is not the version that was put to Ms Tyhalithi. Ms Tyhalithi was told that Ms Dladla denied ever receiving the R7 000.
- [47] Sgt Modupe was asked what she did to find the four men, and responded that she could not tell who they are and Ms Dladla did not tell her who they are when asked. If she had any more information, she would have been able to do more to find them.

THE DEFENCE'S EVIDENCE

- [48] After the section 174 application, Ms Dladla testified in her own defence. According to her she sells things, such as perfume and second-hand cars, sews things, such as curtains, and lends money for a living. She identified Nathi Buthelezi as her business partner.
- [49] Ms Dladla testified that she lent Mr Konki R1 200 in December 2021, and then R15 000 in March 2022. First R10 000 on a Wednesday and then R5 000 on a Sunday. When asked how she got the money for lending out, first she said she started with small amounts and the amounts grew as she got more profits. Then she testified that she started by doing a stokvel for a year, and began to lend money from the proceeds of the stokvel. She testified that all the money lent to Mr Konki came from the stokvel.
- [50] According to Ms Dladla, Mr Konki owed her R15 000 plus interest, being R22 500 but only paid R5 000. She said he told her she would be paid back from insurance from the death of Ms Tyhalithi's mother. She said she told him she had to ask her business partner, who was Nathi. She said that Nathi asked her a number of questions before agreeing to lend the money and that Nathi brought her the money. It was Nathi's money. This again was inconsistent with her previous testimony that it was stokvel money.
- [51] Ms Dladla initially said that Mr Konki borrowed money from her, then that Ms Tyhalithi came to her with a story about her mother passing on. She also said after Mr Konki paid R5000 of the R7500 interest she supplemented it with her own R2500. She then said that Mr Konki told her his lawyer would lend him R50 000 to pay all his debts. She then received a letter that was hand delivered setting out the proposed payment plan, which she did not agree to. She telephoned Mr Konki but only got hold of Ms Tyhalithi who told her that she did not know about the proposed plan and had also received a letter. This was not put to Ms Tyhalithi.
- [52] Ms Dladla sent a picture of the letter to Mr Buthelezi who said that Mr Konki was crazy and asked for Mr Konki's number. She telephoned Ms Tyhalithi and told her Mr Buthelezi was not agreeing to the payment plan, and wanted to speak to

her. Ms Tyhalithi agreed to her number being given to him. Ms Tyhalithi then called her and said Mr Buthelezi had called. None of this was put to Ms Tyhalithi. Ms Dladla later took Mr Konki to a police station to say this man owes me money and the police told her they don't deal with money lending. On being asked whether Mr Buthelezi would be called, Ms Dladla testified that Mr Buthelezi died in 2024.

- [53] Regarding what happened on 5 September 2022, Ms Dladla responded with a convoluted narrative that Mr Buthelezi arrived at her place with some men and she went with him and his cohorts (they in their car and she in hers) to a car wash at Bel Air. Mr Buthelezi's friend arrived with Mr Konki. Mr Buthelezi's "friend" had fetched Mr Konki. She denied that it was a kidnapping. Mr Konki came voluntarily to Bel Air.
- [54] Ms Dladla testified that Mr Konki asked her the day before the second kidnapping (that would have been 8 September 2022) to speak to her "brother" meaning Mr Buthelezi. She said also that Ms Tyhalithi told her the lawyer was depositing the money the next day, 9 September. Mr Buthelezi would not listen and insisted he would come the next day. He then came the next day with his people to Ms Dladla's home.
- [55] According to Ms Dladla she had no control over the events of the day. She was afraid and had to just let Mr Buthelezi and his people do what they did. She was afraid she would be harmed otherwise. However, according to her the men did not have guns. It is difficult to understand why she was so afraid and why Mr Konki went with them when he had work to do, if they were not armed.
- [56] Ms Dladla said that she shared pictures of Mr Konki with her daughter to let her know what was happening in case things went badly and then her daughter could report it to the police. She said that she was laughing in the WhatsApp messages because she is a person who laughs when she is afraid.
- [57] Later, she said that Ms Nkonki told her on the day, 9 September, that Ms Tyhalithi's mother had passed away long ago. This, too, was not put either to Ms Tyhalithi or Ms Nkonki. It was only put to Ms Tyhalithi that the money was in fact

for her mother's funeral. According to Ms Dladla Mr Buthelezi spoke to Ms Nkonki when she called. This was never put to Ms Nkonki.

- [58] Ms Dladla testified also that she could not give her own bank account number because she had not had the app on her phone she had on the day and her husband had taken her card to KwaZulu-Natal. There was no explanation why she could not get the number from him, in the same way as she then obtained Sinethemba's number from her, which she later did. According to her that was the reason for the money going to Sinethemba's account. According to Ms Dladla, Mr Buthelezi said that the money must be paid first to Ms Dladla's phone by cash send and then she must send it to Mr Buthelezi's account. However, that is not what happened with the money that was sent to Sinethemba's account. Ms Dladla then suggested that there was another R5 000 that she had to ask her cousin for, but her cousin only had R2 500. Her version now was that she was only going to get a share of R5 000 from the transaction and that the rest of the Money was to go to Mr Buthelezi
- [59] On being taken through her bank statements, Ms Dladla testified that the large amounts that were paid to her were from persons purchasing motor vehicles, fishing rods and machines to make maize meal.
- [60] Under cross examination Ms Dladla denied that money lending was one of her primary businesses. She stated that she never wrote anything down, she remembered everything. She stated that she did not tell her counsel everything that she had told the court because she was planning to testify and tell the court her story.
- [61] According to Ms Dladla, Thami, her boyfriend/ partner, knew nothing about her business, and was never involved. However when Ms Tyhalithi testified that Ms Dladla said she had to talk to Thami, it was not put to her that this was untrue and that Thami knew nothing about the moneylending business. When Ms Ryan sought to cross examine Ms Dladla on her bank statements, Mr Lebea objected. However, even though the bank statements arrived late, Mr Lebea had himself led evidence on them and, in any event, Mr Lebea had requested that the state produce them. The cross examination was therefore permitted.

- [62] Ms Dladla confirmed that Mr Konki was beaten until the money came in, which was in early evening. She said she did not know why there were no records of her calling Mr Buthelizi, perhaps she had called him on WhatsApp.
- [63] Ms Dladla had testified that she had received money from a Mr Matola for purchase of a vehicle and that she never lent him money, but she could not explain why she had paid him money, which was evident from her bank statements. When the amounts were put to her, she said that she would get him to acquire parts for her and she would pay him. She could not explain how there were payments from her to people, who then paid to Sinethemba. Eventually, Ms Dladla explained that she might ask someone who owed her money to pay it to members of her family. She said she had only used Sinethemba's account for this purpose twice.
- [64] Sinethemba, accused number two, testified next. Her version was that she knew nothing about the events of 9 September and she was surprised when her mother sent her the pictures. She was in KwaZulu-Natal repeating her matric to get better results. She was writing English. She did not know why her mother wanted her bank account number. When asked in cross examination whether she had looked at her bank accounts before testifying, she first denied that she had done so and then admitted it.
- [65] Sinethemba agreed that people paid money that was owing to her mother into her account. She said that her mother used her account often and her mother would tell her where to pay the money that came in. This would include payments to her stepfather. Regarding the payment she made to Cebisile from her account on the day in question, she said that it was a stokvel amount due to Cebisile. This was not consistent with what Ms Dladla had said.
- [66] According to Sinethemba the first time she heard of Mr Buthelezi was when her mother was arrested.
- [67] The next defence witness was Sithandiwe Ndaba, Ms Dladla's cousin, who is the cousin who Ms Dladla testified she had asked for money. She paid it using

stokvel money received on 7 September, so it was after 7 September, but she had no independent memory of the date.

- [68] The next witness was Mr Mathola. He testified that he purchased an Audi A3 from Ms Dladla, and that he had later sold it. He denied that Ms Dladla lent him any money and he denied that she ever gave him money for anything. When the payments reflected in the statements were put to him, he said that maybe he bought rims from Ms Dladla and returned them because they were cracked. This does not explain over 40 transactions between them.
- [69] Mr Mvelase, the next witness, was Sinethemba's boyfriend – his testimony was intended to demonstrate that Sgt Modupe somehow interfered with Sinethemba's phone, but in my view there was nothing in it. Mr Mvelase's evidence was also intended to support Sinethemba's version that she was in KwaZulu-Natal on 9 September, and only came to Gauteng later that day. In my view that is irrelevant because Sinethemba was in contact with her mother by telephone and whether this was in Gauteng or KwaZulu-Natal makes no difference.
- [70] The last defence witness was a Ms Hendricks, a translator, called as an expert. However, the evidence was of no assistance to the court, and she conceded that she was not in a better position to interpret than the person who was in court on the day.
- [71] Finally, an affidavit was uploaded from an official at the Department of Home Affairs confirming that the Mr Buthelezi whose details were provided to the court is deceased.
- [72] Unfortunately, not only was Ms Dladla's evidence internally inconsistent and contradictory, it was not even faintly believable. The fact that she never mentioned Mr Buthelezi at any point, even when being questioned about her involvement, leads one to believe that she only mentioned him at the trial knowing that it was a deceased person who could not confirm or deny her version. There is no evidence that he was a person she knew well or that he was her business partner and the controlling mind of events. It is my view that Mr Buthelezi's involvement was a recent fabrication. In addition, her testimony that

the money for lending came from her stokvel was inconsistent with the version put to State witnesses that it was Mr Buthelezi's money that she lent out.

[73] Ms Dladla's bank account shows activity that is inconsistent with her narrative of her business. The number and type of transactions are consistent with layering and with attempts to conceal where money comes from and where it goes. It fulfils the requirements of money laundering.

[74] In my view the fact that Ms Dladla's bank statements show that a payment of R5 000 was made to Mr Konki's account does not discredit Ms Tyhalithi for two reasons: the first is that it was put to Ms Tyhalithi that the payment was made into her account, rather than Mr Konki's. She was correct on Ms Dladla's own version to deny that. The second, which would bear less weight had the first not existed, is that there is no reason on the evidence before the court to conclude that Ms Tyhalithi would necessarily have been aware of a further loan Mr Konki may have taken from Ms Dladla, or of what payments he received into his bank account. Naturally this could have been explored with her had that been the version put to her, but it was not.

[75] Ms Dladla's version changed over the course of the trial and it is an unavoidable conclusion that this was in order to try and answer the evidence against her.

[76] On the evidence before me, it is clear that the state has proved its case against her beyond reasonable doubt. Her own version has to be dismissed because of the inherent inconsistencies. I am of the view that although Mr Buthelezi is a real person and may have been someone Ms Dladla knew and knew had died in 2024, he was not involved in her business.

[77] Mr Lebea criticised the state for not finding out about Mr Buthelezi. However, part of the investigations is to question suspects, and act on what they say. Had Ms Dladla given any indication that someone else was the mastermind, and who this was, it could have been followed up. My view is that Mr Buthelezi was a late invention.

[78] Ms Dladla's version of 5 September is also highly improbable, as is her explanation of the various bank transactions. This must be taken in conjunction with her refusal to produce her own bank statements while insisting that the state produces them.

COUNTS 1 & 2: KIDNAPPING

[79] The two counts of kidnapping are each related to the events of 5 September and 9 September 2022 respectively. I am satisfied that the state has proved beyond a reasonable doubt that Mr Konki was made to go with Ms Dladla and her companions against his own will, and that Ms Dladla was a directing mind and involved by participation in common purpose.

[80] Ms Dladla wanted to ensure that her money was paid back, especially as it was not a sustainable business model for her to allow people to get away with not complying with the terms of her loans. Her evidence regarding Mr Buthelezi's alleged unhappiness with the situation applies equally to her.

[81] Ms Dladla's attempt to raise a defence of compulsion does not succeed as she has not brought any independent evidence that shows even that she was in business with Mr Buthelezi, let alone that he was the person who was behind the events of those two days, or that she had to comply with what he wanted because she was under duress.

[82] I am not satisfied that Sinethemba was actively involved in the kidnappings. There is no evidence that she was even aware of what happened on 5 September, and although her mother shared some photographs and comments with her, it is not clear that she was aware of all the details or that she participated in any way.

COUNT 3: TORTURE

- [83] The State relied on the contravention of s4(1)(a) of the POCTA for the torture charge. A charge of assault is also competent on the evidence that has been adduced.
- [84] According to Ms Ryan, who appeared for the State, "torture" is defined as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person to achieve a specified purpose, including to intimidate or coerce that person to do or refrain from doing something. A person who "incites, instigates, commands or procures" another person to commit torture is also guilty of torture.
- [85] She pointed out that it was never submitted that there was no torture of Mr Konki. This was in fact the case. The only question raised by the defence was whether Ms Dladla was in fact involved in the torture, or whether she was forced to allow it to happen in her home.
- [86] On the evidence as set out above, it is clear that Ms Dladla's involvement and therefore guilt has been proved beyond a reasonable doubt. As with the kidnapping, Ms Dladla had a common purpose with the men who physically carried out the torture, and participated by providing her home as the venue, and facilitating their comings and goings. Having found that there is no evidence that Mr Buthelezi was her business partner, and that the kidnappings were not at his behest, but rather at Ms Dladla's, the same applies to the extended and severe assault that took place in order to procure the money that Ms Dladla contended was owing to her.
- [87] Again, and for the same reasons as I found Sinethemba not guilty of the kidnappings, I do not believe that there is sufficient evidence that Sinethemba had any control or was involved in the decisions being taken on that day.
- [88] Sinethemba is therefore not guilty of count 3.

COUNT 4: MURDER

[89] It is common cause that Mr Konki's death occurred as a result of the extended and severe assault meted out to him by Ms Dladla's companions, in her presence, and as I have found, at her instigation.

[90] The assault was carried out with no regard for its effects on Mr Konki, and it was so severe and long lasting that the possibility of him dying from the assault was necessarily foreseen. The parties involved, including Ms Dladla, were clearly reconciled to this possibility. This is borne out also by Ms Dladla's various text messages, and the evidence of Ms Nkonki and Ms Tyhalithi about the threats made in an effort to prevent them report what had happened to the police. In fact, as submitted by the State in argument, there was a likelihood that Mr Konki would die, which was stronger than a possibility, and Ms Dladla was reconciled to this likelihood.

[91] Whether Ms Dladla had formed *dolus eventualis* or *dolus directus* does not matter in the circumstances. It has been proved beyond a reasonable doubt that Ms Dladla played an active part in the events that led to his death. The integrity of Mr Konki's person was irrelevant to her, whether he was severely injured or whether the injuries resulted in death.

[92] In these circumstances, and on the same basis as I have found Ms Dladla guilty of the first three counts, I find Ms Dladla guilty of the murder of Mr Konki.

[93] Similarly, and for the same reasons set out in the first three counts, I find Sinethemba not guilty of murder.

COUNTS 5 & 6: EXTORTION

[94] The two counts of extortion are based on the facts as set out above that Ms Tyhalithi and Ms Nkonki were "unlawfully and intentionally" threatened or subjected to pressure to induce them to make payments to Ms Dladla.

[95] It is common cause that Ms Dladla telephoned Ms Tyhalithi numerous times to demonstrate that Mr Konki was being severely assaulted and that this would not stop until Ms Dladla was paid.

[96] Similarly, it is common cause that first Mr Konki and then Ms Dladla telephoned Ms Nkonki to ask her to pay in order to stop Mr Konki's ordeal.

[97] Ms Dladla's only defence here is the attempt to claim compulsion. As I have said above, there is no merit in that defence.

[98] Ms Dladla's guilt on counts 5 and 6 has been proven beyond a reasonable doubt.

[99] On the same basis set out above, I also find Sinethemba not guilty on counts 5 and 6.

COUNT 7: MONEY LAUNDERING

[100] Money laundering is provided for in s 4 of the POCA, which provides:

Any person who knows or ought reasonably to have known that property is or forms part of the proceeds of unlawful activities and –

- (a) enters into any agreement or engages in any arrangement or transaction with anyone in connection with that property, whether such agreement, arrangement or transaction is legally enforceable or not; or
- (b) performs any other act in connection with such property, whether it is performed independently or in concert with any other person, which has or is likely to have the effect –
 - (i) of concealing or disguising the nature, source, location, disposition or movement of said property or the ownership thereof or any interest which anyone may have in respect thereof; or
 - (ii) of enabling or assisting any person who has committed or commits an offence, whether in the Republic or elsewhere –
 - (aa) to avoid prosecution; or
 - (bb) to remove or diminish any property acquired directly, or indirectly, as a result of the commission of an offence,

shall be guilty of an offence.

[101]As Mr Louw pointed out, the “money behaviours” he identified are only an indication that there may be money laundering. As can be seen from s 4, the relevant property (in this case, money) must be part of the proceeds of unlawful activities, and the person must know or ought reasonably to have known that this was the case. In those circumstances, even simply agreeing to transact with that property constitutes an offence.

[102]In this case, the property that is the subject of the enquiry is the money that was received as a result of the assault of Mr Konki and the extortion of him and his family members. That money is clearly in the category of the proceeds of unlawful activities.

[103]Ms Dladla’s various unexplained transactions with the money clearly fall into the category of attempting to conceal its provenance, and falls into both s 4(a) and (b). However, charges were only brought in terms of s 4(b) and I am satisfied that she is guilty as charged.

[104]The situation is slightly different for Sinethemba and Cebisile. Their knowledge of where the money came from was not direct, as Ms Dladla’s was.

[105]Ms Ryan emphasised that the provision is that a person who knows or ought reasonably to have known the provenance of the property, and that s 1 of the POCA deals specifically with the situation where a person is not proved to have direct or actual knowledge.

[106]Section 1 (2) and (3) of the POCA provide:

- (2) For the purposes of this Act a person has knowledge of a fact if –
 - (a) the person has actual knowledge of that fact; or
 - (b) the court is satisfied that –
 - (i) the person believes that there is a reasonable possibility of the existence of that fact; and
 - (ii) he or she fails to obtain information to confirm the existence of that fact.
- (3) For the purposes of this Act a person ought reasonably to have known or suspected a fact if the conclusions that he or she ought to have reached are

those which would have been reached by a reasonable diligent and vigilant person having both –

- (a) The general knowledge, skill, training and experience that may reasonably be expected of a person in his or her position; and
- (b) The general knowledge, skill, training and experience that he or she in fact has.

[107] As far as Sinethemba is concerned, she received payments and paid them on to where Ms Dladla instructed her to, without enquiring where they came from. The WhatsApp conversation between Sinethemba and her mother makes it clear that she knew that the assault of Mr Konki was to do with making someone pay the money to Ms Dladla, and she accepted that. So either she knew the money was the proceeds of the assault and extortion, or she ought reasonably to have known. Sinethemba also testified that she paid the R9 700 to Cebisile because it was a stokvel payment, which was inconsistent with Ms Dladla's evidence. She also did not provide any kind of background for this alleged stokvel. In my view Sinethemba was attempting to provide an innocent explanation that she knew did not exist.

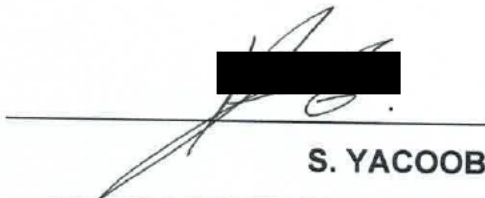
[108] In my view, Sinethemba falls into s1(2)(b). If she does not, then she falls into the category of s1(3), in that, had she been reasonably diligent and vigilant, she would have known that the money came from the assault and extortion. She is therefore guilty on count 7.

[109] Similarly with Cebisile. Ms Dladla had testified that the payment to Sinethemba was then supposed to come to Ms Dladla and then to go to Mr Buthelezi. However, Sinethemba said it was a stokvel payment due to Cebisile. Cebisile herself chose not to testify despite the court having found she had a case to answer. With now other explanation of the money that found its way into her account, I am satisfied that Cebisile ought to have known, had she been reasonably diligent and vigilant, that she was receiving money from a source that was not lawful. She was content to simply receive unexplained money, and not to question it. This makes her complicit. I am satisfied that Cebisile is guilty on count 7.

CONCLUSION

[110] In summary, and for the reasons set out above, I find as follows:

1. Ms Busisiwe Dladla:
Guilty on all counts.
2. Ms Sinethemba Dladla:
(a) Counts 1-6: not guilty.
(b) Count 7: guilty.
3. Ms Cebisile Dladla:
(a) Counts 1-6: not guilty.
(b) Count 7: guilty.



S. YACOOB
JUDGE OF THE HIGH COURT
JOHANNESBURG

APPEARANCES

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For the Accused:	Mr P Lebea
Instructed by:	Mashao Kelly Lebea Inc