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

Case Number: CC46/2025

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED: YES

DATE **26 February 2026**

SIGNATURE

In the matter between:

THE STATE

and

T[...] M[...]

Accused

JUDGMENT

MORE AJ

[1] The accused, T[...] M[...], was charged with two counts. Count one, murder read with section 51(1) of the Criminal Law Amendment Act 105 of 1997 and count two, mutilation of a human body.

[2] Allegations against her are that on or about 11 November 2023, and at or near 7[...] M[...] Street, in the district of Actonville, the accused did unlawfully and intentionally kill O[...] M[...], an adult male, and that on or about 11 November 2023,

also at or near 7[...] M[...] Street, in the district of Actonville, the accused did unlawfully and intentionally violate the body of the deceased person, to wit, O[...] M[...], by decapitating the body and by cutting and removing other body parts. The state avers that the provisions of section 51(1) of Act 105 of 1997 are applicable in that the accused was in a domestic relationship with the victim, and the death of the victim resulted from physical abuse as provided for in Part I of Schedule 2 of Act 105 of 1997, as amended by the Criminal and Related Matters Amendment Act 12 of 2021. Part I of Schedule 2 of Act 105 of 1997 reads as follows:

“Murder, when-

(g) the death of the victim resulted from physical abuse or sexual abuse, as contemplated in paragraphs (a) and (b) of the definition of the ‘domestic violence’ in section 1 of the Domestic Violence Act, 1998 (Act 116 of 1998), by the accused who is or was in a domestic relationship, as defined in section 1 of that Act, with the victim”.

[3] The accused was initially charged with another accused, Johannes Lebeso. The state withdrew charges against him before the accused pleaded. The accused confirmed that she understood the charges levelled against her. She also confirmed that she understood the applicability of the prescribed minimum sentences and the explanation of the competent verdicts relating to the charges. She then pleaded not guilty to count one and guilty to count two. The accused was legally represented by Adv Zuze and the state represented by Adv Jacobs.

[4] Adv Zuze read the plea explanation into the record, and it was marked Exhibit “A” after the state accepted the plea. The state then sought admissions to be made in terms of section 220 of the Criminal Procedure Act 51 of 1977. The state then handed in Exhibit “B”, the photo album. There was no objection from the defence. As a result, it was handed in and marked Exhibit “B”. The photo album was compiled by Nolethando Yvonne Khumalo.

Facts of the case

[5] The state called their only witness Dr Tseke Sipho Tladi, who testified, that he is in the employment of the Gauteng Government Pathology at Springs. He placed his credentials on record and stated that he has a MBMChB from MEDUNSA and qualified in 1988. He has 38 years' experience as a pathologist. He indicated that he examined the body of the deceased on 14 November 2023, and the cause of death was recorded as multiple injuries with gross mutilation. He explained that "multiple injuries" means more than one injury that caused the death, and "gross mutilation" means that the body was cut into pieces or disfigured. He also explained the external appearances of the body. He marked the stab wounds which had haemorrhage already black in colour, and deeper as "A" on the photo album on Photo 20.

[6] Dr Tladi further marked two more wounds as "B" and "C". He further indicated that others were chop wounds. He also said that the stab wounds did not penetrate the heart, meaning that the deceased did not die immediately. Meaning the deceased could have died after about two hours.

[7] Point 6 on the external findings in paragraph 4 of the post-mortem indicates that there are stab wounds on the upper body and stab wounds on the epigastrium. When a proposition was put to Dr Tladi about what he would say if somebody said the person was stabbed once. He said it is not true.

Cross-examination by the defence

[8] When it was put to Dr Tladi that the deceased was stabbed only once, and he died immediately, Dr Tladi responded that the picture points differently. He also indicated that the stabbing on the abdomen rarely kills a person immediately, but the stabbing on the chest will kill a person immediately.

[9] It was also suggested to Dr Tladi that he was tired, and Dr Tladi said it was not true. When it was put to him that the deceased died on the 10th, not the 11th, he responded that he relied on the date of the 11th because the body was received on the 11th. When it was put to him that, as a pathologist, his work is prone to mistakes,

he denied it. After cross-examination, the state did not have any questions. The state then handed in the post-mortem report as Exhibit “C”. The state then closed its case.

Evidence of the accused

[10] The accused informed the Court that she resided at the same address where the murder occurred as a tenant together with the deceased and their son. There were three other tenants there. The accused also confirmed that she and the deceased were married, as the deceased had paid lobola and also, that when this unfolded, the child was inside the room.

[11] When asked about their relationship, the accused said that before the child was born, they had a good relationship, they loved each other. When they started having problems, she thought the situation would stabilise over time. The accused gave the Court an explanation that before the child was born, she was employed, and when she came back from work, the deceased would order her to undress to check if she had not had sexual intercourse with anyone.

[12] The accused also said that they had a lot of misunderstandings, and the deceased would then assault her. She explained that in their culture, a woman does not leave their home or marriage because of assault, but you approach elders to solve the problem. Even though she approached the deceased brothers, the problem persisted. She said even when she was pregnant, the deceased would assault her. She also explained to the Court about the time when she approached the police during November 2023, but had to drop the charges, because she was afraid of him.

[13] On the morning of 10 November 2023, the deceased came home at about 5 o'clock. When he arrived, he wanted to talk. She told him that it was still early, and he started to talk to her in a harsh manner and started shouting about the police. The deceased then assaulted her with open hands, and she covered her face. When she lowered her hands, she realised that he had a knife in his hand. When the deceased tried to stab her, she blocked and sustained an injury on the palm. She tried to disarm him, and they wrestled for the knife.

[14] The accused testified that her intention was to take the knife, but the knife ended up stabbing the deceased. The knife ended up stabbing the deceased at the time when they fell, and he was at the bottom, and she was on top. She indicated to the Court the stabbing on Photo 20 and marked it with a black circle and marked it "T".

[15] The accused then stated that she was afraid, she then went outside to get help, but did not do so as she was afraid that the community would attack her, more especially because she is a foreigner. She was afraid to be burnt because of previous incidents in the community. Later she realised that the deceased was not breathing. She then took the child to the creche and went to the doctor. Thereafter, decided to drink alcohol and later fetched the child from the creche and continued to drink. She does not remember what happened before she went to bed. When she woke up, she realised that the body had been mutilated.

Cross-examination of the accused

[16] The accused was questioned about the knife in Photo 107, and it seemed like a difficult question which she does not understand. She said the knife was a kitchen knife, which was used to cut vegetables. When it was put to her about the knife, she said she did not want to answer about the knife. She also said that she does not know how long the fight lasted. She reiterated that the deceased was stabbed only once. It was put to her during chief-examination that she said she checked if he was alive or dead, and that showed that she wanted him dead, because she stabbed him more than once.

[17] Again, the accused continued to say that there was only one stab wound. It was put to her that there was no threat after she stabbed him once. She did not even call anyone. When she went to the doctor, she did not tell him that she killed the deceased. Instead, she told the doctor that she was fighting with someone. She also confirmed that the body spent the whole day and night in the room until the morning when she started to remove the body parts. During chief-examination, she told the Court that the stab wound was on the lower abdomen, but when she marked the pictures, she marked it on the lower chest, Photo 20. She continued to say there was only one stab wound.

[18] When questioned about the other stab wounds, she said, they might have come from the mutilation process. Something that was not put to the doctor when he testified, and she also did not testify, this during chief-examination. She continued to say that it was just one stab wound when she picked up the t-shirt to check how many stab wounds.

[19] The accused informed the Court that, after the incident, she covered the body and pushed it under the bed. Again, something mentioned only in cross-examination. Due to the lapse of time, she cannot remember which side the deceased was holding the knife. She told the Court that the deceased uttered the words “you are becoming overly with me and I will kill you.”

[20] The accused was then asked to explain the size of the knife blade. She said the blade was approximately 12 centimetres long and longer than the handle. She said that at the time of wrestling for the knife, she was holding the blade. She also said during chief-examination that she does not trust the justice system. It was put to her that, at some stage, the deceased wanted to leave her, and to that she responded that the deceased wanted to take their savings with. In re-examination, she showed the Court how they were holding the knife, also, when they fell, how she was holding the knife with both hands on the blade.

[21] The accused told the Court that as they were fighting or as they were wrestling, she managed to overpower the deceased. She then called a witness, Noluthando Yvonne Khumalo. Ms Khumalo is a police sergeant stationed at Actonville Police Station. Ms Khumalo remembers the accused from the time when the accused came to the Client Service Centre (CSC) to report an assault matter. On that day, Ms Khumalo was posted as a commander of the CSC. She explained to the Court that she assisted the accused by immediately calling the patrol van to go with the accused to point out the suspect (now the deceased) so, that he can be arrested. On that day, the police did not find him. After filling in the relevant forms, she gave the accused her private phone number so that she can call her directly when the accused comes back home so that he can be arrested. But the accused never called her. She does not remember the exact date, but it was during October 2023. She

told the Court that, because she did not assist the accused, she feels like she failed her. During cross-examination, she agreed to the statement that the accused withdrew the case because, if the deceased went to prison, no one would support her. She confirmed that from October 2023 to November 2023, when the incident occurred, the accused did not communicate with her.

Evaluation of evidence

[22] It is a trite principle that the state must prove the guilt of the accused beyond a reasonable doubt. In *S v van der Meyden*,¹ the test was set out as follows:

“The onus of proof in a criminal case is discharged by the State If the evidence establishes the guilt of the accused beyond reasonable doubt. The corollary is that he is entitled to be acquitted if it is reasonably possible that he might be innocent”.

[23] However, in *R v Mlambo*,² Malan JA said that:

“There is no obligation upon the Crown to close every avenue of escape which may be said to be open to an accused. It is sufficient for the Crown to produce evidence by means of which such a high degree of probability is raised that the ordinary reasonable man, after mature consideration, comes to the conclusion that there exist no reasonable doubt that an accused has committed the crime charged. He must, in other words, be morally certain of the guilt of the accused.

An accused’s claim to the benefit of doubt when it may be said to exist must not be derived from speculation but must rest upon a reasonable and solid foundation, created either by positive evidence or gathered from reasonable inferences, which are not in conflict with, or outweighed by, the proved facts of the case”.

[24] Everyone in this country has a right to life. This is the right entrenched in section 11 of the Bill of Rights of the Constitution of the Republic of South Africa, 1996. Murder is regarded as a serious offence that falls within the categories of Schedule 2 of the Act 105 of 1997. Our courts and society consider human life as being precious, and more particularly in a constitutional dispensation such as ours, where the right to life is guaranteed by the Constitution. Murder is not only the end of life of a family member but, it leaves much hardship and pain for the remaining family

¹ 1957 (4) SA 727 (A) at 738. Also see *R v Difford* 1937 (AD) 370 at 373-383.

² 1999 (2) SACR 558 (SCA).

members, which might not heal. It is common cause that their relationship has a history of domestic violence. The love relationship between the deceased and the accused was a complicated one, for the longest time they had domestic disputes that resulted in the accused approaching the police for assistance.

[25] The accused approached the police station, but as at the time of the murder there was no protection order in place, as the cases were withdrawn before the incident unfolded. According to the accused, on previous occasions she would approach the police station, but nothing came out of that.

[26] It is common cause that the accused is the one who committed these offences, and there is no dispute about that. She informed the Court that she stabbed the deceased only once, but the explanation is not consistent with the injuries explained to the Court by the pathologist, supported by the photo album and the post-mortem report.

[27] To show that she had an intention to kill, she did not report or alert anyone either immediately or at a later stage. The explanation she gave to the Court was that she was afraid, and the Court finds that this is not good enough. She continued to say she stabbed him once, even after the doctor's explanation that with that type of stab wounds sustained by the deceased, the deceased did not die immediately.

[28] In my view, if the accused had asked for help, the deceased could have survived by getting help for him. It could have shown that she did not have the intention to kill. She told the Court that after going outside, she came back inside to check if the deceased was still alive or dead. This also gives an indication that she really wanted him dead, and that she was not the victim on that day.

[29] Throughout the accused's own evidence, it shows that after they fell, the deceased was lying on his back, and he was no longer a threat to her life. In her own words, she said, that when the deceased was at the bottom, and she was on top, she realised that if she did not apply her full strength, she was going to be stabbed, and she did not only stab the deceased once, but many times according to the doctor who performed the post-mortem.

[30] Even after the doctor's testimony, many times she continued to tell the Court that she stabbed him once. She informed the Court that she was acting in self-defence. The key requirements of self-defence are that, there must have been an unlawful attack and that the attack must be imminent. Also, the defensive act must be necessary to avert the attack, and it must be proportionate to the attack and not be excessively violent. As stated in *S v de Oliveira*:³

"A person who acts in private defence acts lawfully, provided his conduct satisfies the requirements laid down for such a defence and does not exceed its limits. The test for private defence is objective - would a reasonable man in the position of the accused have acted in the same way".

[31] In the present case, even if the Court were to believe that the deceased was the aggressor, the accused exceeded the bounds of self-defence. She had a choice after taking control of the situation, not to stab him, but to get help, with the deceased lying on his back, her life was no longer in danger.

[32] On count two, she pleaded guilty. What is surprising is that when she testified under oath, she told the Court that she was too drunk when she went to sleep on the 10th, and when she woke up the following day, she realised that she had mutilated someone, but could not remember how it happened. This is a pure indication that she is not honest with the Court, as she had already pleaded guilty to this count.

[33] The question that remains is, if she realised in the morning that her husband was mutilated, why then did she continue to immediately dispose of the body and burn it with petrol at the dumping site? Murder, on its own, is cruel enough, but for the accused to mutilate the body of the deceased shows that she had all the required intention to commit both these offences at all times. It is very clear from the record that she did not want to answer questions about the knife during cross-examination. There are a number of crucial questions where she failed to give satisfactory answers, like when she was asked about the knife. Why not call for help from anyone, like the neighbours, the deceased brothers, the police, or even the doctor the following day, or people at the creche, or where she bought alcohol?

³ 1993 (2) SACR 59 (A) at 63H-I.

[34] She was there when the incident unfolded, but she was unable to take the Court into confidence about everything that happened on that particular day, step by step. It does not end there, she then told the Court that she does not trust the justice system anymore. This, according to her, is supported by her previous experiences with the police.

[35] To support this, she called a defence witness, Noluthando Yvonne Khumalo, who is a police officer. What I fail to understand about the evidence of this witness is when she says she feels she failed the accused. What is very strange about this is that the same witness who says she failed the accused immediately after interviewing the accused about the assault case, called the police van to go with the accused to arrest the deceased, who was then the suspect. She did not stop there, when they came back to the police station in the absence of the deceased, she volunteered to give the accused her own personal number so that she could call her directly when the deceased came back home. In my opinion, I find this to be the work of a diligent police officer who cares about everyone who comes to the police station to ask for help. In my view, the police did not fail to act. In fact, she did what is expected of her, even more.

Proven facts

[36] The deceased died as a result of the injuries inflicted on him by the accused. The accused stabbed the deceased multiple times, and those stab wounds did not penetrate his vital organs, hence he did not die immediately. It was further proven that the accused then cut the deceased into pieces, mutilated him, and later took his body parts to the dumping area to burn them, and also, there were other body parts, which were later recovered. The above is supported by the scientific evidence and the post-mortem findings. The doctor even indicated that the deceased was cut immediately after being stabbed or seconds after death, because of the redness on the cuts. In *S v Chabalala*,⁴ it was said that:

“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

⁴ 2003 (1) SACR 134 (SCA) at para 15.

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".

[37] The accused's version is full of improbabilities and contradictions. The accused's version cannot be trusted. I find that the accused stabbed the deceased with the intention of killing him, and thereafter she cut him into pieces. I also find that she was not acting in self-defence at the time. I also find that if she was acting in self-defence, she then exceeded the bounds of self-defence. I find that she waited for the deceased, and when the deceased came back unsuspecting, she attacked him. She then continued to cut him to dispose of the evidence.

[38] Her version is unconvincing and improbable. Her evidence further conflicted with the objective facts proved by the state. She fabricated her version to suit her lies. The accused version is therefore found to be highly improbable. Therefore, not reasonably, possibly true and is rejected by this Court.

[39] In the result, I find that the state has proved its case beyond a reasonable doubt after considering the totality of the evidence. Accordingly, the accused is found guilty on count one, murder, and count two, mutilation of a human body as charged.

Order

1. The accused is found guilty of murder, read with the provisions of section 51(1) of the Criminal Law Amendment Act 105 of 1997.
2. The Accused is found guilty of the mutilation of a human body.

**MORE AJ
ACTING JUDGE OF THE HIGH COURT
PRETORIA**

Date of Judgment

: 26 February 2026

Appearances:

For the State: Adv Jacobs

Instructed by: Director of Public Prosecutions

For the accused: Adv Zuze

Instructed by: Machingura Attorneys Inc

