

SAFLII Note: Certain personal/private details of parties or witnesses have been redacted from this document in compliance with the law and [SAFLII Policy](#)

**REPUBLIC OF SOUTH AFRICA
IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG**

(1) REPORTABLE: NO	
(2) OF INTEREST TO OTHER JUDGES: NO	
(3) REVISED	
26 May 2026	
DATE	SIGNATURE

CASE NUMBER: SS107/2025

In the matter between:

THE STATE

and

A[...] C[...]

Accused

JUDGMENT

DOSIO J:

Introduction

[1] The accused is arraigned on four counts. Count one is a charge of assault with intention to do grievous bodily harm. Count two is a charge of arson. Count three is a charge of attempted murder and count four is a charge of murder as contemplated within the provision of s51(1) of the Criminal Law Amendment Act 105 of 1997 ('Act 105 of 1997'). The first incident of assault with intention to do grievous bodily harm is

alleged by the State to have occurred on 26 April 2025 at Dorah's tavern. The second, third and fourth counts are alleged by the State to have occurred at number 1[...] K[...] road, phase 7, extension 28, Vosloorus.

- [2] The State is represented by Advocate Barnard, and the accused is represented by Mr. Ngxumza.
- [3] Prior to the accused pleading, the minimum prescribed sentence of life imprisonment, applicable to count four was explained to the accused. He understood.
- [4] The right to an assessor was also explained. The accused understood and elected to have no assessor.
- [5] The state alleges that in respect to count one, the accused assaulted V[...] N[...] on 26 April 2025 at Dorah's Tavern Vosloorus, by hitting her all over her body. In respect to count two, the state alleges that on 27 April 2025, at K[...] Road, Vosloorus, the accused set fire to an immovable property, to wit, a building situated at [...] K[...] Road, Phase 7, Vosloorus, which residential room was occupied by V[...] N[...] and/or D[...] G[...]. In respect to count three, the state alleges that on the date and place on count two, the accused attempted to kill D[...] G[...]. In respect to count four, the state alleges that on the date and place in count two, the accused killed V[...] N[...].
- [6] The accused pleaded not guilty to all counts. No explanation was made.
- [7] The summary of substantial facts is that:

(a) The deceased to wit V[...] N[...] (hereinafter referred to as the deceased), lived in a room at 1[...] K[...] Road, Extension 28, Vosloorus, with her boyfriend to wit D[...] G[...] (hereinafter referred to as "G[...]"). This room was part of an immovable structure with several rooms that were rented out to tenants. G[...] is also referred to as 'M[...]' during the course of the judgment

(b) The deceased used to be in a relationship with the accused. This however was a volatile relationship, and they frequently argued. The deceased ended their relationship and pursued a relationship with G[...].

(c) On 25 April 2025, the deceased and G[...] were drinking a Dorah's Tavern with their friends and family. The accused arrived at approximately 17h00 and requested to

speak to the deceased. They went outside to have a conversation, but he ended up assaulting her. G[...] went outside, separated them, and the accused left.

(d) At some point, the accused returned to Dorah's Tavern to apologise to the deceased. He wanted to rekindle their relationship, but she refused. Eventually, the deceased and G[...] went home.

(e) The accused followed the deceased and G[...] to their home where he argued with G[...].

(f) The accused again demanded to have the deceased back, but G[...] chased him away. After the accused left, the deceased and G[...] went to sleep.

(g) On 27 April 2025 at approximately 00h00, it is alleged by the State that the accused returned to the premises where G[...]`s room was situated. He threw a petrol bomb into the room and set it alight with a match. The room caught fire with the deceased and G[...] inside it. The accused ran away.

(h) Both the deceased and G[...] sustained burn injuries and were rushed to hospital for medical treatment. The deceased died at the hospital as a result of "severe burns plus complication". G[...] sustained potentially life- threatening injuries as a result of 68% body surface burns.

[8] The following exhibits were handed in by consent, namely,

(a) exhibit 'A', which are admissions in terms of s220 of the Criminal Procedure Act 51 of 1977 ('Act 51 of 1977'),

(b) exhibit 'B', which is a hospital file in respect of the deceased,

(c) exhibit 'C', which is the post-mortem report compiled by Dr I Motlounge,

(d) exhibit 'D', which is the J88 medical report compiled by Dr M Vermaak,

(e) exhibit 'E', which is a photo album compiled by sergeant VP Matseka,

(f) exhibit 'F', which is a sketch plan,

(g) exhibit 'G', which is the accused's J88 Medical report, compiled by Dr Zintle Stuma.

The following formal admissions in terms of s220 of Act 51 of 1977 were made by the accused, namely:

(a) That the deceased is the person named in count four of the indictment, to wit V[...] N[...] (Body nr DR 1250/2025), and that she died on 28 April 2025 at the Thello Mogoerane Hospital, Vosloorus.

(b) That the deceased sustained injuries at a room situated at 1[...] K[...] Road, Extension 28, Vosloorus, on 27 April 2025 and that she was transported to the Thello Mogoerane Hospital in Vosloorus where she was admitted for the treatment of her

injuries. She subsequently died on 28 April 2025 at approximately 22h00 as correctly recorded in her hospital file as per exhibit 'B'.

(c) That on 2 May 2025, Dr I Motlounge conducted a post-mortem examination on the body of the deceased and found the cause of death to be "Severe Burns plus complication". That Dr Motlounge correctly recorded the facts ascertained and findings made during the post-mortem examination on exhibit 'C'.

(d) That the deceased's body did not sustain any further injuries between the time that the wounds were inflicted on 27 May 2025, and the post-mortem examination which was conducted on 2 May 2025.

(e) That the complainant in count 3 of the indictment is D[...] G[...], and that on 27 April 2025, he sustained injuries in a room situated at 1[...] K[...] Road, Extension 28, Vosloorus and that he was transported to the Thello Mogoerane Hospital in Vosloorus, where he was admitted for the treatment of his injuries. That Dr M Vermaak, who was one of his treating doctors, compiled a J88 medico-legal report wherein she correctly recorded the facts ascertained and findings made relating to the injuries he sustained. This report is attached hereto and marked as Exhibit 'D'.

(f) That sergeant VP Matseka from the Local Criminal Record Centre, Springs, attended a crime scene at 1[...] K[...] Road, Extension 28, Vosloorus and that he recorded and documented the crime scene in a photo album, attached hereto and marked as exhibit 'E', which correctly reflects the condition of the crime scene.

[9] The following witnesses were called, namely, Raymond Tinosse, Mlungisi Gift Bambo, Dr Stuma, G[...] E[...] S[...], D[...] G[...] and L[...] N[...]. The accused then testified.

Raymond Tinosse

[10] This witness testified that he lives at 1[...] K[...] Road, Vosloorus in the outside rooms. He rents at this property. There are eight rooms outside and the main house.

[11] This witness knew a person by the name of M[...]. This appears to be G[...], although this witness did not know the real name of M[...]. He stated G[...] lived in this room that was burnt on a certain Saturday. This witness was asleep on this Saturday.

- [12] His wife woke him up around 23h00 or 00h00 and told him people were fighting in the yard. He woke up and pulled the curtain to the side. He saw G[...] fighting with another man. He recognised the voice of G[...]. There was also an electric light outside his room. The light shone in the whole open area. The men were insulting each other verbally and fighting.
- [13] This witness stated he knows the deceased.
- [14] Whilst in his room, he heard the man, who was unknown to him saying, "*please. I want my wife*". This man left and said he would come back. This man then left.
- [15] This witness then went back to sleep. At around 04h00, his wife told him the man was back and she said, "*the room is burning*". This witness saw a man running away. He only saw his back and not his face. This man had been standing next to the window of G[...] before he ran away.
- [16] This witness stated it was the same man he had seen earlier. The man was still wearing the same clothes. He stated that the shirt or jersey the man was wearing had white and green colours on it.
- [17] He stated that when he saw this fire, G[...] and his wife were ablaze whilst, leaving the room.
- [18] This witness rushed to extinguish the fire. He used a bucket to extinguish the fire. G[...] and the deceased were severally burnt and were in a lot of pain. G[...]’s flesh was coming off.
- [19] The deceased’s family were called who came and took G[...] and deceased to the hospital.
- [20] The room was badly burnt as the roof was lifted up from the wall.
- [21] This witness does not know the accused.
- [22] During cross-examination, this witness stated he was informed from his wife that G[...] was fighting outside. He stated that the man who was fighting was the same person

who returned when the room was burning as he was still wearing the same clothing which was green and white in colour.

Mlungisi Gift Bambo

- [23] This witness stated he knew the accused for two years as they would meet in the tavern to drink liquor. He knew the deceased for two years as she was a friend to his girlfriend's sister.
- [24] He stated the accused and the deceased were known to him.
- [25] On 27 April 2025, he saw the accused whilst this witness stood at his gate at Extension 1[...], Number 1[...], M[...], Vosloorus. The time was 07h00 or 08h00. The accused was together with Thabo.
- [26] The accused went to the Pakistani shop and drew cash. The accused gave R20-00 to Thabo. The accused appeared to be very angry, and he was burnt on his right hand.
- [27] The accused told him that he had "*bombed*" V[...] (the deceased) and M[...] (G[...]). When the accused told him this, they were passing K[...] Street where this incident had allegedly occurred. This witness never asked the accused any questions and allowed the accused to narrate his story. The accused was a bit tipsy when he was narrating these events to this witness in Isizulu. In all the years he has known the accused, he never had any difficulty to understand him. This witness saw the place the accused was referring to. As they passed it, he noticed the roof had lifted from the wall and the wall was dark caused by the smoke.
- [28] He and the accused then went to the flats where they bought a 750ml beer. They shared the beer amongst themselves, and also with a certain Xoliswa, Mponyana and Masedi.
- [29] The accused asked him to accompany him to the J. Dumane Clinic in Vosloorus. The time was around 09h00 and 10h00. On their way to the clinic, the accused told him that V[...] and M[...] (namely) G[...], "*will come back and be lovers like Chicken Dust*". He explained that this means the accused had burnt them so they would come back

"*shrinked*". He explained that in township language, "*chicken dust is fried or braaied chicken*". When the accused mentioned these words, he appeared angry.

- [30] When they got to the clinic a J88 Medical report was requested so they went to the police station to collect one and returned to the clinic. At the clinic, they treated the accused's right hand by cleaning the hand and then bandaging it. The explanation given by the accused is that someone else had burnt him.
- [31] During cross- examination, he stated on 27 April 2025, he lived at M[...] Street, Phase [...], Vosloorus, which is not far from K[...] Street. He stated had he been outside his yard when the fire occurred, he would have seen it.
- [32] This witness stated that the deceased is a friend to his girlfriend's sister. He would at times drink with the deceased. He conceded that he knew who the accused was talking about when he mentioned he had "*bombed*" V[...] and M[...]. Thabo was no longer present when the accused informed him of what he had done.
- [33] When asked by the accused's legal representative why he never did anything after being informed by the accused what he did, he replied by saying there is nothing he could do as they were going to buy beer. He also did not know it was such a big matter or so serious.
- [34] This witness denied the version put to him by the accused's legal representative that he was amongst the people who assaulted him. He stated he was never present when the accused was arrested. He had no knowledge of the accused being taken to an open veld and being assaulted. He also saw no injuries on the accused's lip or back. He only saw the injuries on his right hand. This witness stated he did not believe the accused when the accused told him he has been burnt by someone else.
- [35] This witness stated he was not that friendly with the accused, he merely knew him by the name "Malambane".
- [36] After the clinic, he and the accused walked to Mzini. Whilst they were walking, the accused said he must walk in front of him. They then met the family of the deceased who then took the accused away. This witness never spoke to the family of the

deceased as it seemed to him the family of the deceased already knew what the accused had done.

[37] He denied the version put to him by the accused's legal representative that the accused never told him he had burnt V[...] and M[...].

[38] This witness knew that V[...] was in a relationship with the accused. It was not long that G[...] had moved to the area. He did not know if G[...] was in a relationship with the deceased.

[39] This witness appeared to this court as an honest witness. It is true that he had three occasions to inform the clinic, the police and the family of the deceased what the accused had told him. However, his explanation that he never did this is because he himself did not know it was so serious and furthermore, he had not yet verified what the accused had told him. This is a reasonable explanation. This witness impressed the court.

Doctor Stuma

[40] Doctor Stuma testified that she has a bachelor's degree in medicine and in surgery. She was working at the J. Dumane clinic on 27 April 2025.

[41] She completed the medical J88 report in respect to the accused on 27 April 2025. She stated that the accused was accompanied by his grandson and the history given of the alleged assault was: "patient found wife with another man they then hit him with fists + hands + metal rod all over the body. They then tried to burn him, but he ran away and only burnt his right hand".

[42] As regards her clinical findings she noticed the accused had an inner swollen lip and that there was a burn wound on the back of the right hand and an abrasion of the right middle finger. She established these injuries by doing a head-to-toe examination of the accused.

[43] She stated that the injuries she noted were not in keeping with the accused's version that he had been assaulted with an iron rod. The other injuries noted, were in keeping with the version of the accused that he had been hit with fists.

- [44] She did not believe that this accused had been assaulted by the community, because if she did believe him, the process on admission to the clinic would have been different. The difference being that she would have conducted a urine dipstick examination and would have placed the patient on a catheter, as his or her kidney function might have been impaired. She did not conduct such tests as she saw no signs of the accused being assaulted by the community.
- [45] During cross- examination, she conceded she did not note any problem to the accused's left eye as this was not relevant to the history given to her about the alleged assault.
- [46] She stated it is the accused who told her he was accompanied by his grandson. When confronted with the version of the accused that he never said he was accompanied by his grandson, this witness replied, "*it would have to be his word versus the J88*". She did not speak to the other man who accompanied the accused.
- [47] She did not note any signs of alcohol on the accused.

G[...] E[...] S[...]

- [48] She stated she lives in section 2[...], Vosloorus. She knew the accused as he lived with her sister (namely, the deceased) and they had a six-year-old child. They had been in a relationship for eight years. They lived in phase [...].
- [49] She stated the relationship between the deceased and the accused was toxic as the accused was always swearing at the deceased and saying the kids of the deceased were vegetables. She witnessed how the accused assaulted the kids of the deceased on numerous occasions. The accused and the deceased would often break up and then reconcile.
- [50] She stated she used to see M[...] namely, G[...], as he resided next to a workshop where he used to fix cars. She did not know his real name at the time. She got to know him after this event as he accompanied all of them to the hospital and that is when she first spoke to him.

- [51] In the early morning hours of 27 April 2025, she was in the company of the deceased at Dorah`s tavern.
- [52] She found the accused and deceased drinking in this tavern. A small boy approached the deceased while she was dancing. The accused then started assaulting the deceased on her back. The deceased retaliated and pushed the accused. People intervened and separated them. The accused then asked for forgiveness. The accused then went to sit six metres away from the deceased, facing the deceased. The deceased went outside to smoke, and another gentleman approached her to light his cigarette. The accused then rushed out and started assaulting the deceased with open hands on her face. This witness and her brother then rushed to separate them. The accused once again apologised for his behaviour and said it would not happen again. The accused then left.
- [53] This witness and the deceased remained at Dorah`s tavern. The accused then returned and told the deceased, "*let's go*", to which she said, "*no*". The accused went to sit six metres away from the deceased for a second time and continued drinking. This witness then told the deceased its better to leave, whereupon the deceased said she would go with the accused to phase 7 where they were renting. This is an address in Vosloorus. The deceased was still living with the accused at this stage. This witness and her brother then left Dorah`s tavern, leaving the deceased in the company of the accused.
- [54] This witness went to Raymond`s place the following morning at 5am. When she got there she saw a mattress and base that had been burnt. A lot of water was on the ground and there was still a lot of smoke.
- [55] This witness found the deceased inside the room. The deceased was with their mother, and she was wet, shivering and was cold. The deceased was wearing the clothes of Raymond`s wife.
- [56] The deceased spoke to her and the deceased told her, she had pleaded with the accused not to do this and to think about the children.
- [57] This witness and her younger brother, called N[...], went to buy petrol to put in the car so they could take the injured persons to the hospital, namely, M[...] and the deceased.

- [58] This witness could see that the deceased's back of her neck was pink, as well as both of her hands. M[...] was complaining of pains in both his thighs.
- [59] This witness did enter the room that was burnt. The roof had been pushed up and some of the bricks had fallen down. She could smell the petrol odour in that room.
- [60] At the hospital, this witness assisted to take off the clothes of the deceased. She noticed the deceased was badly burnt on her stomach and there was yellow liquid coming out of her stomach. While the deceased was standing, liquid was flowing from the deceased's body.
- [61] She was present when the accused was arrested as she, her two nieces, one nephew and their neighbours were looking for him. The accused was seen walking with a gentlemen called Mlungisi. When she approached the accused, she asked him what he had done to her sister (the deceased), and the accused replied, "*what did your sister do*". The accused was now drunk and he had a bandage on his right hand. The accused was placed in the motor vehicle, and he was taken to the police station. This witness stated she did not fight with the accused and she was merely carrying out her sister's wish that they must find the accused and take him to the police station. She did not see any community members assaulting the accused. She stated the community no longer assault offenders as two boys were arrested for doing that and they are still in custody.
- [62] They left Mlungisi at the scene.
- [63] The deceased passed away on 28 April 2025.
- [64] During cross- examination, this witness stated that she was on good terms with the accused and that his version that they were not in good terms is a lie. She stated she even used to give him money for rent. She denied the version put to her that she was not paying the accused's rent. She stated she even gave him money for food.
- [65] She also denied the version put to her that she was no longer on good terms with the accused since B[...] passed away.

[66] She repeated the version that at the tavern, the accused and the deceased had a fight. She stated at this stage, she did not know of the relationship between M[...] and the deceased, as the deceased and accused were still living together.

[67] She maintained her version that it is the accused who set fire to the room as the deceased told her it was him. This witness impressed this court.

D[...] G[...]

[68] This witness stated he is known as M[...] and he lived in a room at number 1, K[...] Road for six to seven months.

[69] He stated that he was in love with the deceased and they were in a relationship. The deceased was his girlfriend for four months.

[70] He knew the accused as they would meet when they drank at Dorah`s tavern, but he was not his friend.

[71] On 26 April 2025, he went to Dorah`s tavern at past eleven to past twelve at night. When he arrived at the tavern the deceased was there. He bought her a beer and they started drinking. The deceased was there alone.

[72] When this witness arrived at the tavern, the accused was not there yet, he arrived later. After they started drinking, the deceased went outside and that is where she met the accused. The deceased and the accused then started fighting, pushing each other. This witness then left with the deceased. The accused followed them all the way to where they were staying and the accused kept pushing the deceased. The deceased told him she no longer loved him. When they got to the place where this witness and the deceased were living, this witness pushed the accused out and said they now want to sleep. He and the deceased entered their room. The accused said, "*I will be back*", and this witness said, "*go*". The accused then left.

[73] This witness stated a neighbour by the name of Raymond had his door open and he saw this witness pushing the accused.

- [74] He stated the area outside his room was visible as there is a light outside Raymond's room which illuminates the whole area.
- [75] After he went to bed, the accused person came. He was asleep at this stage. He heard the deceased saying, "*I want to come outside, don't set it on fire, I will come outside and we can talk*". When the deceased mentioned these words, she was by the window. The deceased never went outside the room.
- [76] This witness initially said he saw the accused outside the room. The visibility was still clear as earlier that evening. There was no one outside apart from the accused.
- [77] This witness believes it is the accused who threw the container into the room. He smelt petrol. All of a sudden, he said he was surrendered by fire. He then heard footsteps of someone running away. This container was thrown in through the window after the deceased finished speaking.
- [78] This witness then jumped out of the room, leaving through the front door. The deceased also got out of the room through the front door.
- [79] This witness stated he sustained serious injuries to his whole body and he was admitted to the Thelle Mogoerane Hospital.
- [80] Due to the fire, his clothing, television, radio and fridge were destroyed. When the bomb exploded, it caused the bricks in the room to fall. The fridge is the only item which was destroyed that does not belong to him.
- [81] This incident affected him badly and he still thinks about it each day.
- [82] He believes the damage caused amounted to R15 000-00.
- [83] During cross examination, this witness stated he had never been to where the accused lived.
- [84] He stated on the evening of 26 April 2025, it was the first time for him to see the accused. The deceased had told him the accused was her ex. This witness did not know if the deceased was still living with the accused at this stage.

- [85] This witness denied the version put to him that the accused saw this witness for the first time in court. This witness repeated the accused followed him and the deceased right up to where this witness and the deceased slept that night.
- [86] He stated he heard the accused`s voice for the first time that night.
- [87] He stated he could only see the accused a little bit through the window as the deceased remained standing at the window. He then conceded he could only hear the voice but could not see the person properly outside the window. He added that at the time the house was burnt he did not see the accused`s face. He assumed it was the accused, as the accused had said, "*I'm coming back*".
- [88] When the deceased was talking to the person outside the window she was speaking in Zulu. She stated that the person must please forgive her and that the person must not burn the house and that she would go out.
- [89] This witness was adamant it must've been the accused as the deceased did not fight with anyone else at the tavern. He was an honest witness. He could have stated it was the accused he saw outside, yet he conceded during cross-examination that he assumes it is the accused.

L[...] N[...]

- [90] He testified he is 16 years' old. The deceased was his mother, and the accused is his stepfather. This witness last saw the deceased when she left the house on 26 April 2025 at around 12h00 or 11h00.
- [91] At 04h00 or 05h00 on 27 April 2025, the accused came back to the house and this witness noticed that the accused had a burn on his right hand which one could see had just happened as one could see the flesh and white meat on the back of his hand. Even on the accused`s beard there were signs it was burnt.
- [92] This witness could smell petrol on the jersey that the accused was wearing. The accused then left saying he was going to fetch his mother. The accused never came back.

- [93] During cross- examination, he stated he never asked the accused how he got burnt.
- [94] This witness agreed he was present when the accused was arrested and he went with the accused to the police station. He stated that he did inform the police that the accused arrived home with a burn wound and that his jersey smelt of petrol. This witness impressed this court.
- [95] The State brought an application in terms of s3(1)(c) of The Law of Evidence Act 45 of 1988 for the admission of hearsay evidence in respect of reports made by the deceased to G[...] S[...]. This application was opposed by the defence. The parties submitted heads of argument in this regard. The court ruled that the statements made by the deceased to G[...] S[...] were admissible as hearsay.
- [96] The State then closed its case.

The accused

- [97] He stated that the deceased was his wife. He last saw her the morning of 26 April 2025. They had slept in the same room the night before. He returned from work the evening of 26 April 2025 at approximately 21h00. At home he found the male child by the name of L[...]. He asked L[...] the whereabouts of the deceased, however, L[...] did not know. The accused then went to sleep and woke up on 27 April. The deceased was still not at home. He took a bath and met Mlungisi Bambo at the T-junction. Mlungisi asked for alcohol and the two of them went to "The Flats" where the accused bought alcohol. They drank it and later Mlungisi asked the accused to accompany him towards "the Motaungs". They walked along a footpath, crossed a main road and into a veld.
- [98] The accused and Mlungisi saw a car arriving and he was assaulted by seven or eight unknown males. Mlungisi asked the accused why he burnt M[...]’ girlfriend. The accused denied knowledge of this. He sustained a burn injury on his right hand when he was burnt with a lighter. He also sustained scars on his back and side when he was pulled on his lower body. Two of the males kicked the accused and they made him stand at the open door of the car. He was then placed inside the vehicle and told to keep quiet. The group took the accused to the clinic. He was unable to walk on his

own and he was put in a wheelchair. A nurse told them that he needed a J88 form in order to be examined. The group took the accused to the police station, where Mlungisi went inside and returned with the J88 form. They went back to the clinic. The doctor only examined his hand, bandaged it and did not examine any other part of his body, despite him telling her about the bruises on his back.

- [99] When they were done at the clinic, the group dropped the accused near an open veld. He went to look for the deceased's relatives and met them in the street where Dorah's tavern is. They were angry and asked the accused what he had done. He asked them what he did and they said that he burnt the deceased. The accused was scared of talking to the deceased's family and he lowered himself in order to escape from them. He then went with them to the police station where he was arrested. He stated it was the first time for him to meet G[...]/M[...] here at court. He also stated that he never went to Dorah's tavern on the evening of 26 April 2025. He also never followed the deceased and G[...] to where G[...] lived.
- [100] During cross-examination, the accused stated that he was not aware of any bad blood between himself and Mlungisi, Dr Stuma, the deceased or L[...]. He did not have any problems with the deceased at the time of her death and they were on good terms. The deceased did not tell him of the celebration she would be attending on 26 April 2025. When he arrived home from work, L[...] also did not tell him that the deceased went to a celebration. He was not worried about the deceased, because he knew that she drank alcohol and he was used to letting her enjoy herself when she was out with friends and other males. He was not worried when she did not come home at night and he was not concerned about where she slept because he trusted her.
- [101] The accused denied G[...] S[...]’s testimony that his relationship with the deceased was toxic and denied that they had ever separated. He was surprised to hear that the deceased was with G[...] / M[...] or that she had double crossed him.
- [102] On the 27 April 2025, the accused did not go to look for the deceased and he did not know who she was with. When he met Mlungisi, he did not say or ask anything about the deceased and M[...]. When the two of them walked to “the Flats”, or whilst they were drinking at the flats, Mlungisi did not say anything about the deceased and M[...]. When they left towards “the Motaungs”, Mlungisi also did not say anything about the deceased and M[...].

- [103] They found a Mazda sedan in the veld and the car's occupants moved to them. They assaulted the accused and asked him why he had burnt people. They kicked him and pulled him to the ground. The people used weapons to assault him, but because they were too fast, the accused was unable to say which weapons were used. He was injured on his left and right shoulders, as well as his hips. Three of the males were speaking on the side and they said that the accused must be taken to the clinic. Mlungisi was not one of these men. He was then placed in the boot, and they went to the hospital.
- [104] During the assault, the group asked the accused about burning the deceased and the accused denied it. The group did not believe his denial and the assault got worse.
- [105] He stated that he was seated in a wheelchair during the visits to the clinic. When they travelled to the police, they travelled in a Mazda station wagon, and he sat at the back. He does not know why the doctor did not make note of the serious injuries he sustained and that she examined him whilst he was seated in a wheelchair. The doctor did not even examine his eye, or allow him to explain anything about any injury, except for the injury to his burnt right hand.
- [106] The accused stated that he sustained the burn injury when he was lying on his back. He was trapped on the ground and he was trying to protect his one eye. People in the group assaulted him, slapped him and others held his hand and burnt it with a lighter.
- [107] After they were done at the clinic, the group dropped him off next to the soccer veld. They said that they would follow him and that he must confess that he did what they were asking him about. The accused then left and walked unaided without a wheelchair as he was forcing himself now to walk. After meeting the deceased's family, he accompanied them to the police. He never opened any case of assault against Mlungisi and the group. He also did not tell the police about his injuries. This was the evidence for the accused and his case was closed.

Evaluation

- [108] The correct approach to evaluation of evidence in a criminal case was enunciated in the case of *State vs Chabalala*¹, where it was held that the correct approach is to weigh up elements which points towards the guilt of the accused, against all those which are indicative of his innocence, taking proper account of inherent strengths and weakness, probabilities and improbabilities on both sides and having done so, to decide whether the balance weigh so heavily in favour of the state as to exclude any reasonable doubt about the accused's guilt.
- [109] The State must prove its case beyond reasonable doubt and if an accused person's version is reasonably possibly true, he is entitled to an acquittal. It is not necessary for the State to prove its case beyond all doubt². When evaluating the evidence, this court should consider the totality of the evidence, the merits and demerits of the State and defence case, as well as the probabilities and improbabilities. It must assess whether the evidence is trustworthy and truthful, despite shortcomings, defects, or contradictions therein.
- [110] It is common cause that there was an incident at 1[...] K[...] Road, Vosloorus, on 27 April 2025 where D[...] G[...]’s room was set alight. Both D[...] G[...] and the deceased were present in the room at the time it was set alight, and they sustained serious burn injuries over their bodies. These injuries were sustained as a result of the fire that occurred in G[...]’s room. They were taken to hospital where the deceased passed away. Gurupira was treated for his injuries and eventually discharged. It is common cause that the accused sustained burn injuries to his right hand and a bruise or swollen lip, as result of an assault. The accused was arrested on 27 April 2025 whilst in the presence of Mlungisi Bambo.
- [111] What is placed in issue is that it is the accused who was in the yard of 1[...] K[...] Road, Vosloorus on 27 April 2025 and that he set Gurupira's room alight with the intent to murder the deceased and G[...]. It is also in dispute that the accused made certain statements amounting to admissions to Mlungisi Bambo on 27 April 2025.

¹ *State vs Chabalala* 2003 (1) SACR 134

² *S v Guess* 1976 (4) SA 715 (A) at 718H – 719A, *S v Mhlongo* 1991(2) SACR 207(A) at 210I – J and *S v Radebe* 1991 (2) SACR 166 (T)

- [112] G[...] is a single witness in respect of the fact that the accused followed him and the deceased to his home and that he entered the yard and had an argument with G[...]. G[...] testified clearly and logically. He did not contradict himself on any issues. G[...] knew the accused by sight. He had some interaction with the accused on the night of the incident and they were in close proximity with each other when they argued in his yard. The accused stated that he “*was coming back.*” This aspect was corroborated by Raymond Tinosse who also heard someone unknown saying “*I want my wife back, I’m coming back.*”
- [113] G[...]’s evidence that someone threw a container in the room, containing petrol, which set the room alight, is corroborated by Raymond Tinosse. Raymond Tinosse testified that due to the light shining in the yard, he saw the same man that G[...] had been arguing with earlier, standing outside the room of G[...], whilst G[...] and the deceased were inside the room. He knew it was the same man because he was still wearing the same clothing, namely, a green and white top. The curtain of G[...]’s room was burning and the right hand of this person, who set the room alight, was also burning. This version corresponds more likely to how the accused sustained an injury to his right hand.
- [114] This burn injury is corroborated by the medical report, namely, exhibit ‘G’, as well as by the evidence of L[...] N[...] who saw the accused arriving home between 04h00 – 05h00 with a fresh burn wound on the right hand. The accused’s version that he was burnt by the community cannot be true as this would, according to the accused’s version only have happened during the later part of 27 April, when he was arrested. Mlungisi also saw this burn wound to the accused’s right hand before the family of the deceased confronted the accused. The witness L[...] N[...] also impressed this court with his observations that the accused’s jersey smelt like petrol at 04h00.
- [115] The accused’s version that he was assaulted by the community is rejected as false and not reasonably possibly true. The evidence of G[...] S[...] that the community no longer assault perpetrators is accepted by this court as true. It is highly unlikely that the community would assault him badly and then take him to a clinic, as the identity of the perpetrators would then be known by the accused. As conceded by the accused, he never made any case of assault against anyone after he had the opportunity to do so at the police station.

- [116] According to dr Stuma, the accused told her that he was assaulted with an iron rod, yet she found no traces of such an assault, which adds further support to the version of G[...] S[...] that the accused was not assaulted by the community. The injury noted by the doctor of a swollen lip is more consistent with the fight that occurred between the deceased and G[...] and that G[...] possibly assaulted him. In addition, it is improbable that the accused was assaulted to such an extent by the community that he was so weak that he had to be in a wheelchair, yet shortly thereafter, he walked off on his own, unassisted by anyone or using a wheelchair.
- [117] Mlungisi Bambo impressed this court. His version corroborates the events that transpired earlier that morning, in that the accused admitted to him that he had “*bombed*” the deceased and Machip’s room and that he would “*finish them off*” and that the deceased and M[...] “*would come back and be lovers like chicken dust*”. Although the accused was angry and a bit tipsy when he narrated this to Mlungisi, there does not appear to have been a problem communicating with each other. The accused was consistent in what he told Mlungisi on two separate occasions, which was also confirmed as Mlungisi saw the burnt room as they passed by. The fact that Mlungisi never alerted the police is a neutral fact as he states himself that he had not yet confirmed if the deceased and G[...] were in fact burnt at that stage.
- [118] The accused denies being at Dorah’s tavern and that he merely went to sleep when he came back from work. This version is rejected by this court as false and not reasonably possibly true as both G[...] and G[...] S[...] saw him at the tavern. In considering the accused’s alibi, that he went to sleep, this must be considered in light of the evidence of his identification by G[...] S[...] and G [...], as well as the reports made by the deceased to G[...] S [...], and the statements made by the accused to Mlungisi Bambo. All these pieces of evidence cannot be viewed in isolation and must be considered in its totality. If the evidence against the accused is sufficiently strong and it proves beyond reasonable doubt that the accused was the perpetrator, it would mean that the alibi is false and must then be rejected.
- [119] The accused’s version that the relationship between himself and the deceased was not toxic is also rejected by this court as false and not reasonably possibly true. G[...] S[...] impressed this court with her evidence. She testified the accused would often beat the deceased. Furthermore, she saw the deceased twice at the tavern on the evening of 26

April beating the deceased. The version of the accused that he never saw the deceased at the tavern is rejected as false and not reasonably possibly true.

[120] The version of the accused that he never followed G[...] and the deceased home in the early morning hours of 27 April is also rejected as false and not reasonably possibly true.

[121] The version of the accused that he never threw a container into the room of G[...] is also rejected as false and not reasonably possibly true. The deceased prior to passing away told her sister, namely, G[...] S[...] that:

(a) she pleaded with the accused not to do that and that he should think of the children,

(b) the deceased complained about the smell of petrol and said that it smelt bad because the accused used petrol and poured it on her, and

(c) *“to take the accused to the police, and she would deal with the case once she is out of the hospita”*. The deceased and the accused were in a relationship, the possibility of the deceased making a mistake as to the identity of the person she was referring to is unlikely.

[122] The version of the accused that the community first assaulted him and that he was then taken to the clinic is rejected as false and not reasonably possibly true. Mlungisi Bambo was very clear that he went with the accused to the clinic, prior to the family of the deceased finding the accused in his company.

Findings

[123] In respect to count one, this court is satisfied that the State has proved the charge of assault with intention to do grievous bodily harm. It is clear the accused assaulted the deceased on two occasions at Dorah's tavern.

[124] As regards count two, it is clear that the container of petrol that was thrown into the room of G [...], clearly caused a great amount of damage, causing the room to burn and the roof to lift. This is an immovable structure. It is clear the accused had the intention to cause damage to this room. There were no grounds of justification and he is found guilty of arson.

[125] As regards count three which refers to attempted murder, it is clear that G[...] was badly burnt and that he was in hospital for a considerable amount of time healing from the burn wounds sustained. It is clear he could have died as a result of these severe burns and accordingly, this court is satisfied that the State has proved the charge of attempted murder.

[126] As regards the fourth count, this court is satisfied that the accused intended to kill the deceased and that he went to G[...]’s room armed with the container of petrol. This was premeditated and accordingly the accused is found guilty of murder as envisaged in terms of s51(1) of Act 105 of 1997.

D DOSIO
JUDGE OF THE HIGH COURT
JOHANNESBURG

DATE HEARD **22 May 2026**

DATE OF JUDGMENT **26 May 2026**

APPEARANCES

ON BEHALF OF THE ACCUSED: Mr Ngxumza (for the accused)
Instructed by Legal Aid SA, Johannesburg

ON BEHALF OF THE STATE: Adv. Barnard
Instructed by the Office of the National
Director of Public Prosecutions, Johannesburg