

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA

CASE NO.: A227/24

(1) REPORTABLE: NO  
(2) OF INTEREST TO OTHER JUDGES: NO  
(3) REVISED: NO

Date: 29 May 2026

E van der Schyff

In the matter between:

**SANDILE SYDNEY TSHATSHENI**

**APPELLANT**

and

**THE STATE**

**RESPONDENT**

*Delivered: This judgment is handed down electronically by uploading it to the electronic file of this matter on CaseLines. In the event that there is a discrepancy between the date the judgment is signed and the date it is uploaded to CaseLines, the date the judgment is uploaded to CaseLines is deemed to be the date that the judgment is handed down.*

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**JUDGMENT**

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**VAN DER SCHYFF J**

*Introduction*

[1] This is an appeal against conviction only. The appellant was convicted in the Regional Court, Nigel, on one count of rape. He was sentenced to ten years' imprisonment.

[2] The appellant's defence at trial was that the sexual intercourse between himself and the complainant was consensual. Leave to appeal against conviction was subsequently granted by the trial court.

[3] The appeal turns primarily on the evaluation of credibility, the proper treatment of the evidence of a single witness, and whether the appellant's version was reasonably possibly true.

[4] The appellant contends that the trial court erred in accepting the complainant's evidence as reliable notwithstanding several alleged contradictions, failed properly to approach the cautionary rule applicable to a single witness, and wrongly rejected the appellant's version as false.

[5] An appellate court approaches findings of credibility and fact with due deference, recognising the advantage enjoyed by the trial court in observing witnesses testify. Absent a material misdirection, factual findings are generally presumed to be correct and will not lightly be disturbed on appeal.<sup>1</sup>

[6] In criminal proceedings the State bears the onus of proving the guilt of an accused beyond reasonable doubt. The evidence must be evaluated holistically, having regard to the probabilities, improbabilities, strengths and weaknesses inherent in both versions. The court does not consider individual aspects of the evidence in isolation.<sup>2</sup>

[7] The fact that a complainant is a single witness does not require corroboration in every material respect. The proper enquiry is whether the evidence, despite possible shortcomings or contradictions, is reliable on the material issues. Minor discrepancies do not necessarily render evidence false.<sup>3</sup>

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<sup>1</sup> *R v Dhlumayo and Another* 1948 (2) SA 677 (A) at 696.

<sup>2</sup> *S v Chabalala* 2003 (1) SACR 134 (SCA) at para [15].

<sup>3</sup> *S v Sauls and Others* 1981 (3) SA 172 (A); *S v Artman and Another* 1968 (3) SA 339 (A).

[8] An accused is entitled to an acquittal if his version is reasonably possibly true. However, a court is equally entitled to reject a version that is materially inconsistent with the probabilities or so improbable that it cannot reasonably possibly be true.<sup>4</sup>

*Common cause facts and issues in dispute*

[9] Certain features of the evidence were either formally admitted or effectively undisputed. The parties were acquainted; they spent time together on the day in question; sexual intercourse occurred inside the appellant's motor vehicle; and the complainant later reported the incident first to Mbali Masilo and thereafter to the police

[10] What remained contested was, first, whether the sexual intercourse was consensual, and second, whether the complainant drove with the appellant willingly. The central issue for determination was whether the complainant consented to the sexual intercourse.

*Analysis*

[11] The appellant testified in his own defence and called no witnesses. His defence was that he and the complainant were involved in a secret relationship for three months and that the sexual intercourse was consensual.

[12] The appellant submitted that the complainant's evidence was unreliable because of various inconsistencies concerning events occurring before and after the incident. These included differences between the complainant's account and Mbali Masilo's evidence relating to reporting the incident, and the sending of a message from her cell phone to the appellant.

[13] The existence of contradictions does not, without more, justify rejection of a witness's evidence. The proper enquiry is whether the contradictions relate to the central issue in dispute or whether they concern peripheral matters. In the present matter, the

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<sup>4</sup> *S v Shackell* 2001 (2) SACR 185 (SCA) at para 30.

identified inconsistencies related largely to collateral events and did not materially undermine the complainant's evidence regarding the absence of consent.

[14] The trial court carefully considered these discrepancies and expressly evaluated them against the totality of the evidence. Several features of the complainant's account were either undisputed or consistent with the appellant's own evidence, leaving consent as the true issue for determination.


[15] The appellant's version was that he and the complainant were engaged in a secret romantic relationship and that the intercourse occurred consensually. The trial court rejected this version as not reasonably possibly true. The trial court was entitled to consider the inherent improbabilities of the alleged secret relationship when weighed against the complainant's conduct immediately after the incident, including the prompt reporting thereof. Having considered the record, this court is unable to conclude that such finding was vitiated by material misdirection or was unsupported by the evidence.

[16] The record does not disclose any material misdirection in the trial court's evaluation of the evidence. The learned magistrate considered the contradictions relied upon by the appellant, evaluated the probabilities, and applied the cautionary rule relating to a single witness. On the totality of the evidence, the State proved the appellant's guilt beyond a reasonable doubt, and the appeal cannot succeed.


## **ORDER**

**In the result the following order is granted:**

**The appeal against conviction is dismissed**

  
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**E VAN DER SCHYFF**  
**JUDGE OF THE HIGH COURT**  
**GAUTENG DIVISION, PRETORIA**

**I AGREE**



**M KUMALO**  
**JUDGE OF THE HIGH COURT**  
**GAUTENG DIVISION, PRETORIA**

For the appellant:	Mr MB Kgagara
Instructed by:	Pretoria Justice Centre (Legal Aid South Africa)
For the respondent:	Adv VG Khosa
Instructed by:	Office of the Director of Public Prosecutions, Gauteng
Date of hearing:	28 May 2026
Date of judgment:	29 May 2026