



**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**

JUDGMENT

Case no: A49/2026

In the matter between:

KEAGAN CARL TROSKIE

APPELLANT

AND

THE STATE

RESPONDENT

Coram: Justice J Cloete *et* Acting Justice M Adams

Heard: 28 August 2026

Delivered (electronically): 31 August 2026

ORDER

The appellant's appeal against his convictions on counts 1 and 2 is dismissed.

The convictions and resultant sentence are confirmed.

JUDGMENT

Cloete J (Adams AJ concurring):

[1] This is an appeal with leave of the trial court against the appellant's conviction on 19 June 2024 on two counts of assault with intent to cause grievous bodily harm.¹ The counts were taken as one for purposes of sentence and he received 4 years direct imprisonment under s 276(1)(i) of the Criminal Procedure Act.² Leave to appeal against conviction was granted by the trial court.

[2] The state's case was that on 25 October 2020 the complainant was severely assaulted on two occasions, which included punching and striking her over her body, choking her, headbutting her on her nose, covering her mouth, biting her and threatening to kill her. The state also alleged that the assaults were committed by the appellant, the complainant's boyfriend at the time, in her home in the early hours and later the same morning.

[3] The complainant's evidence was that the aforementioned assaults occurred after she withdrew from consensual sexual intercourse with the appellant after he had subjected her to rough, painful intercourse after a night out together. During the first assault, he dragged her back onto the bed and continued, while also swearing at her and calling her a bitch and a whore amongst others. Thereafter he forced her to lie next to him.

¹ The appellant was charged with two counts of attempted murder but found guilty of two counts of assault with intent to cause grievous bodily harm. He was acquitted on a third count of kidnapping.

² Criminal Procedure Act 51 of 1977. Section 276(1)(i) permits an offender's earlier release under correctional supervision, in the discretion of the Correctional Supervision and Parole Review Board, on expiry of one-sixth of the sentence.

[4] At around 6 am that morning he again viciously assaulted her. After calming and cajoling him, she managed to leave her home under the pretence of going for a walk. She ran to a friend who lived about 2 km away. The friend took photographs of her injuries on the complainant's cell phone and took her to the police station to report the incident. Thereafter she was taken for a medical examination.

[5] After the complainant left her home that morning the appellant repeatedly called and messaged her on WhatsApp. Proof of the calls made, and messages from his cell phone, were handed in as Exhibit B. She answered one of these calls and he told her that he loved her and that she should not do anything stupid, which she understood to mean reporting the matter to the police.

[6] After being medically examined, she returned to the police station. The appellant had already been contacted by them to come to the station. Upon his arrival he asked her to withdraw the charge and she refused. On the following day she obtained a protection order against the appellant and changed the locks to her home.

[7] Although the complainant was subjected to lengthy cross-examination she remained unshaken on all material aspects of her testimony. The appellant's version was essentially that the complainant had concocted the assaults to punish him as a result of jealousy, and had in fact thrown a glass at him which injured his rib. She was consistent in her denial of that version.

[8] The appellant also maintained, as part of his version, that the complainant deliberately photoshopped the photographs of her injuries, and sent herself at least one message incriminating him from one of his two cell phones. According to him, he had asked her to keep that phone in her handbag while they were out at dinner the night before. The complainant's response was that

she had only 'photoshopped' out some of her private parts for sake of decency, and that the appellant had only one cell phone, although he used two sim cards. She denied that he had asked her to keep his cell phone as he alleged.

[9] It was thereafter put to her by the appellant's legal representative that he could not have made the calls, and sent the messages to her, that particular morning, because he had already had to hand in his phone to the police. The record is not clear as to the identity of the phone to which the appellant's legal representative was referring. As far as can be gleaned from the record, the complainant's testimony about the two sim cards was not taken further in cross-examination.

[10] Dr Swarts had conducted the medical examination of the complainant. She confirmed the complainant's injuries. She also confirmed that the complainant asked her to take photographs of her injuries on the complainant's cell phone, which she did, and identified them as part of Exhibit A. Dr Swarts was cross-examined but again, on the material aspects of her evidence, she was also unshaken.

[11] The appellant's friend who had assisted her testified and corroborated her version in all material respects, including the complainant's injuries, that she too had photographed them, how traumatised the complainant was, and the appellant's persistent messaging and calling. A further witness, who lived close by to the complainant but did not know her, testified that she was woken on the night in question by a female screaming and crying, which continued on and off for a few hours. The noise was coming from the direction of the complainant's home some 12 metres away. About two weeks later the complainant came to her home to inform her that she was the person who had been assaulted. The complainant also lifted her top to show her some bruising.

[12] In his testimony the appellant repeated his version that the complainant was jealous and had assaulted him by throwing a glass at him. He flatly denied having assaulted her or having tried to contact her or attempted to persuade her to withdraw the charges. He continued to maintain, in essence, that she had made up the entire episode. He did not mention during his evidence in chief that he had asked the complainant to keep one of his cell phones in her bag the night before the incident. Indeed he made no mention of how many phones or sim cards he had.

[13] According to him, when the complainant left her home the morning after the alleged assaults she had no injuries whatsoever, was calm, and kissed him goodbye. He was thus very surprised to receive a call from the police later that morning while he was visiting his sister. He testified that he handed his phone, watch, keys and wallet to his sister (who had accompanied him to the station) when he was taken to be fingerprinted.

[14] He alleged that the complainant called him on his phone while his sister was holding it, and told him: 'I did not mean to do this. I just thought that you were going to do it' presumably - although this was not properly explored - because she thought that he would report her alleged assault on him with the glass. His evidence was that both Sergeant Williams, the police officer present at the time, as well as his sister would confirm this. However, Sergeant Williams was not called by the defence as a witness.

[15] In cross-examination the appellant conceded that he had neither formally reported nor sought medical attention for the injury he maintained the complainant had inflicted to his rib when she allegedly threw the glass at him, despite describing it as causing him 'immense pain'. He conceded that he is considerably stronger and larger than the complainant. When asked if he agreed that in a physical altercation he could easily have overpowered her, he replied that: 'I would not know because you cannot underestimate someone by the size

of them'. This was but one example of the appellant's economy with the truth, as is more fully borne out by the record. He also conceded that after his arrest he had never heard from the complainant again.

[16] According to the appellant, the complainant left her home at 8 am and he left to visit his sister at 10.30 am. The records in Exhibit B reflect 27 messages sent from the appellant's phone number to the complainant between 8.05 am and 9.04 am that morning, mostly begging her to respond and also asking her forgiveness. They continued from 11.17 am to 13.22 pm. In two, he asked which hospital she had gone to. At 11.57 am his message read that the police had contacted him and at 11.58 am he messaged 'Please ...withdraw it'. At 12.08 pm his message read that he was leaving with his sister for the police station. The messages continued constantly until 13.23 pm until the complainant blocked him. Notwithstanding this overwhelming objective evidence, the appellant maintained that he did not once attempt to contact the complainant during that entire period.

[17] The appellant appeared to have forgotten his version about the complainant having one of his cell phones, because he then claimed that he had left the other in the bedside cabinet at the complainant's home. He also confirmed that when the complainant left that morning, the phone he alleged she had messaged herself from to incriminate him was still in the cabinet, and he did not suggest that she had returned at any stage to retrieve it.

[18] He claimed for the first time that the woman of whom the complainant was allegedly jealous had a physical altercation with her two weeks prior to the events giving rise to the charges, but did not know why this had never been put to the complainant when she testified, although he had allegedly told his legal representative about it when preparing for trial.

[19] The evidence of the appellant's sister, who drove him to the police station after the complainant reported the incidents, could not assist him with regard to the assaults themselves. Although she testified that the complainant had called the appellant on his phone while he was being fingerprinted, she maintained that the phone was lying on a table and she was not holding it as the appellant alleged. It is unclear how the appellant grabbed the phone – as she put it- in the presence of Sergeant Williams while he was being fingerprinted.

[20] The learned magistrate correctly summarised the evidence, albeit briefly. Her evaluation thereof, together with her credibility findings, cannot be faulted. She implicitly accepted that there were some inconsistencies in the evidence adduced by the state. These inconsistencies, which were not material, are unsurprising given the extent of the assaults on the complainant and how traumatised she was as a result when making the initial reports. The complainant was also, as the magistrate correctly observed, subjected to unnecessarily lengthy and at times irrelevant cross-examination.

[21] As the magistrate also observed, there were no inherent improbabilities in the complainant's version, and that version was corroborated in all material respects by three witnesses, two of whom (Dr Swarts and the neighbour) were entirely independent witnesses. The magistrate was also correct in rejecting the appellant's version as false beyond reasonable doubt and placing little weight on the veracity of his sister's testimony.

[22] The grounds of appeal advanced on the appellant's behalf are essentially twofold. The first is the criticism that the state failed to prove its case beyond a reasonable doubt, with reliance being placed on aspects which are not material. None have merit. The second pertains to the alleged fabrication by the complainant of the photographic and electronic evidence which the trial court, in granting leave to appeal, appears to have regarded as a 'contentious issue'.

[23] In my view, if anything, the learned magistrate erred on the side of caution on this score. It is highly improbable, given the proven facts, that the complainant would have somehow managed to injure herself between leaving her home (on the appellant's version, without a scratch) and arriving at her friend's home a short while later, bleeding, bruised and traumatised. The friend took the first set of photographs and confirmed the complainant's physical and emotional condition. The same friend accompanied the complainant to the police station and thereafter to her medical examination. Dr Swarts herself took photographs of the complainant's injuries and she too confirmed them. There was no suggestion that either of these two witnesses had been party to photoshopping those photographs.

[24] As far as the calls and messages to the complainant are concerned, the defence did not adduce the evidence of an expert, and the complainant's friend confirmed that the complainant received them. The messages were also clearly corroborated by Exhibit B.

[25] Having regard to the above, the appellant was correctly convicted and the appeal thus fails. Although we are precluded from interfering with sentence (which can only occur where there is a cross-appeal by the state – which there is not - and then on grounds curtailed by law), in the particular circumstances of this case, one of serious gender-based violence against a defenceless woman in the sanctity of her home, by someone she trusted and who is entirely without remorse, the appellant has been given a proverbial slap on the wrist in receiving the lenient sentence that he did.

[26] The following order is made:

The appellant's appeal against his convictions on counts 1 and 2 is dismissed. The convictions and resultant sentence are confirmed.

J I CLOETE
JUDGE OF THE HIGH COURT

I agree

M ADAMS
ACTING JUDGE OF THE HIGH COURT

Appearances

For appellant: L van Reenen
Instructed by: Le Minnie Attorneys, Malmesbury

For respondent: L Badenhorst
Instructed by: Director of Public Prosecutions, Cape Town