REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: CC41/2023

REPORTABLE: YES/NO

OF INTEREST TO OTHER JUDGES: YES/NO

REVISED: YES/NO

DATE: 25 – 04-2024

In the matter between:

THE STATE

And

MASPOPI LEBOGANG DORAH TSIANE **ACCUSED 1**

SHADRACK SHIMANE SETAISE **ACCUSED 2**

JUDGMENT ON SENTENCE

PHAHLANE, J

[1] Accused 1 and 2 have been found guilty of murder read with the provisions of section 51(1) and Part 1 of Schedule 2 of the Criminal Law Amendment Act 105 of 1997 (“the Act”) which provides for the imposition of a minimum sentence of life imprisonment on a conviction of murder when it was planned or premeditated, unless there are substantial and compelling circumstances which justify the imposition of a lesser sentence.

[2] The Supreme Court of Appeal ("SCA") in ***S v Kekana***[1] pointed out that "the purpose of stipulating that a particular charge should be read with specific minimum sentence provisions of the Act is essentially two-fold: First, to alert the accused of the applicability of the prescribed minimum sentence. Second, to afford the accused an opportunity to place facts before the court on which a deviation from the prescribed sentence would be justified".

[3] This means that both accused 1 and 2 must satisfy the court that substantial and compelling circumstances exist, which justify the imposition of a lesser sentence than the prescribed minimum sentence of life imprisonment **-** because the court is enjoined with the powers in terms of section 51(3)(a) of the Act, to deviate from imposing the prescribed minimum sentence.

[4] Having said that, the general principles governing the imposition of a sentence in terms of the Act as articulated by the SCA in the seminal judgment of ***S v Malgas***[2] makes it clear that "it is no longer business as usual. A court that is required to impose a sentence in terms of the Act is not free to inscribe whatever sentence it deems fit, and it must be conscious of the fact that the legislature has ordained life imprisonment or the particular prescribed period of imprisonment as the sentence which should ordinarily be imposed for the commission of the listed crimes in the specified circumstances". This principle was reaffirmed by the SCA in ***S v Matyityi***[3] when it held that courts have a duty to implement those sentences.

[5] Sentencing involves a very high degree of responsibility which should be carried out with equanimity. It is an action that requires the court to work purposefully at finding the most appropriate sentence in a manner that accords with the accused's right to fair trial embodied in section 35 of the Constitution[4]. Our courts have repeatedly emphasised that a sentence to be imposed must always be individualised; considered and passed dispassionately objectively and upon a careful consideration of all relevant factors. Thus, there must be an appropriate nexus between the reprehensible conduct of the accused persons, the seriousness and

[1] 2019 (1) SACR 1 (SCA) at para 24.
[2] 2001 (1) SACR 469 (SCA) at para 8.
[3] 2011 (1) SACR 40 (SCA) ; [2010] 2 All SA 424 (SCA)
[4] S v Robertson (CC 4112020) [2022] ZAWCHC 104; 2023 (2) SACR 156 (WCC) (18 May 2022)

severity of the crime committed by the accused, and the sentence.

[6] It is appropriate to refer to the guidelines on sentencing as was aptly articulated by the court in ***S v Thonga***[5] that "during the sentencing phase, the trial court is called upon to exercise its penal discretion judicially after careful and objectively balanced consideration of all relevant material, and the punishment must be reasonable and should reflect the degree of moral blameworthiness of the offender".

[7] The seriousness of the offence which accused 1 and 2 have been found guilty of is self- evident. The deceased in this matter, Mr HENDRICK TSHABANGU was killed in a ruthless manner by the accused persons, acting in the furtherance of a common purpose. They had no regard for human life as it is evident from their own testimony, and the evidence presented by the State that paraffin, which is a highly flammable liquid, was used and thereafter the deceased was set alight and left for dead.

[8] The seriousness of the offence committed was illustrated by the *post-mortem* report and the photographs of the body of the deceased which were admitted by the accused persons in terms of section 220 of the CPA. The photographs tell a complete story on their own **-** which paint a bleak picture of the ruthless manner in which the deceased was attacked and burned by the accused persons at a place where he was supposed to be safe, his home. The skin on his whole body, from his neck up until his feet has been peeled off as a result of the burns. The inside of his shack has been completely burned down and reduced to ashes. The post-mortem report reveals that:

(a) There are partial and full thickness burns of approximately 80% of the body surface involving most of the upper and lower limbs, the anterior and posterior aspect of the trunk.

(b) There are features of focal blunt force injuries of the face and head.

[5] 1993 (1) SACR 365 (V) at 370 (c)-(f).

(c) There are lacerations to the left eyebrow and right cheek.

(d) There is a contusion of the lower lip and abrasions of the left parietal aspect of the scalp.

[9] The above injuries shows that the deceased must have suffered and died a painful death. I have in my judgment indicated that the injuries sustained by the deceased were confirmed by accused 1 who testified that the deceased was lying on the floor when accused 2 was on top of him and fighting with him. This set of events was confirmed by accused 2 who gave a demonstration of how he was in a kneeling position on top of the deceased and pressing down on him and striking him with a blow before the fire started.

[10] The right to life, which should never be compromised in any way, is guaranteed and protected by the constitution as an unqualified right because human life cannot be intentionally terminated.

[11] In my view, the deceased's injuries demonstrate the violent and vicious attack on him by the accused. As indicated in the preceding paragraph, the deceased must have suffered incredible pain, shock and horror in his last moments.

[12] The evidence of Ms Shabangu which the court accepted as truthful and reliable was that the deceased was doused with paraffin and set alight after being assaulted. If regard is had to the photographs of the deceased, specifically the burn wounds he sustained, they clearly corroborate his version that he gave to his sister Ms Shabangu and Mr Mashiane. This corroborative evidence does not hang in the balance because it is further corroborated by other evidence.

[13] There is no doubt in my mind that paraffin was indeed poured on the deceased, and deliberately set alight. The decision or finding of this court after careful consideration of all the aspects and evidence before it, was that the evidence of the State was corroborated in so many respects by *inter alia*, Ms Mboweni, a friend of accused 1 who was told by accused 1 in no uncertain terms that she had killed the

deceased.

[14] In ***S v Madikane***[6] the court aptly stated that "the value of human dignity lies at the heart of the requirement that a sentence must be proportionate to the offence".

[15] It is trite law that sentencing an accused person must be directed at addressing the judicial purposes of punishment which are deterrence; prevention; retribution and rehabilitation[7]. In determining an appropriate sentence which is just and fair, I must have regard to the triad factors pertaining to sentence, namely: the offence, the offender and the interests of society[8]. This means that the court must take into account the nature and seriousness of the crime committed by accused 1 and 2; their personal circumstances; as well as the interests of the society. Accordingly, the principle that "punishment should fit the crime as well as the criminal and must be fair to society" must be observed. Whilst it is so that a court must always endeavour to exercise a measure of mercy, sight must not be lost on the purpose and objectives of punishment.

[16] The SCA in ***Madau v S***[9] warned that courts must always strive to arrive at a sentence which is just and fair to both the victim and the perpetrator; has regard to the nature of the crime; and takes account of the interests of society. As far as sentence involving the minimum sentence legislation is concerned, ***Malgas*** *supra* set out how the court should deal with substantial and compelling circumstances.

[17] In essence, a court should use the prescribed sentences as a point of departure and should weigh all traditional sentencing considerations. A court should only depart from the prescribed sentence if imposing such sentence would be unjust.

[18] Both accused persons elected not to testify in mitigation of their sentence and their counsels addressed the court from the Bar. It is worth noting that an accused has the right to remain silent and not testify, which can be exercised

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[6] 2011 (2) SACR 11 (ECG).
[7] S v Rabie 1975 (4) SA 855 (A).
[8] S v Zinn 1969 (2) SA 537 (A).
[9] (764/2012) [2012) ZASCA 56 at para 13 (09 May 2013).

throughout the proceedings[10]. The personal circumstance of accused 1 placed before court are as follows:

(a) She is 38 years of age, born on 31 December 1986. She was 37 years old at the time of the commission of the offence.

(b) She is not married and has one child doing Grade 9 at N[…]. The child is currently staying with the accused's mother who is a pensioner and is receiving pensioner's grant from the government.

(c) Regarding her educational background, she passed Grade 10, but could not continue further with her studies because of financial constraints.

(d) She has no fixed property but was renting.

(e) She was self-employed as a hawker making a profit of R1500 per week.

(f) She was a breadwinner taking care of her mother, siblings and her child. Her child is also receiving social grant from the government.

(g) She is a member of the Z[…] church and was a member of the church choir.

(h) She has been in custody for 1 year and 3 months.

[19] The following personal circumstance of accused 2 were placed before court:

(a) He is 40 years of age, born on 26 April 1984, and was 38 years of age at the time of the commission of this offence.

(b) He is unmarried and has a daughter aged 8.

[10] Section 35(3)(h) of Constitution, Act 108 of 1996.

(c) He was self-employed as a hawker, selling food at Jefferson's place. He was making a profit of between R5000 to R6000 per week which he shared with accused 1. He was also doing cleaning at a local school, and he supported his mother.

(d) He passed Grade 11 in 2002 and could not proceed further with his education because of the bad living conditions at home. He was raised by his mother and his father passed away when he was 25 years old.

(e) He has been in custody for 1 year and 3 months.

(f) That his record of previous conviction relates to reckless driving and is more than 10 years old and accused 2 should be regarded as a first offender.

(g) It was submitted that accused 2 did not have any intention to kill the deceased and is remorseful. Counsel submitted that accused 2 is a candidate for rehabilitation and that the court should take judicial notice of provocation, meaning, he was provoked by the deceased.

[20] It was submitted on behalf of both that the personal circumstances of the accused persons taken cumulatively constitutes substantial and compelling circumstance that should persuade the court to deviate from imposing the prescribed sentence.

[21] The State presented the Victim Impact Statement (VIS) of the sister of the deceased in aggravation of sentence and submitted that the personal circumstances of the accused are just ordinary circumstances because they do not meet the standard of substantial and compelling and that the aggravating circumstances are overwhelming, and they far outweigh the mitigating factors.

21.1 The State further submitted that the court should consider the injuries

sustained by the deceased and that both accused persons admitted that 80% of burn wounds that led to the death of the deceased was not a good way of dying. It was also submitted that the accused have not shown any remorse and that both cannot be rehabilitated until they take full responsibility of their actions.

[22] Ms Shabangu noted in her **VIS** that: **(1)** the deceased was a breadwinner taking care of his mother, wife and children; **(2)** the death of the deceased had a negative impact on his mother because she is now a sickly person and is on constant medication; **(3)** the deceased's son is also not coping well because his performance in school has dropped and has requested a gap year for 2024 because he was deeply affected after seeing the way his father was burned. He has isolated himself and is always locking himself in his room and struggle to sleep; **(4)** the death of the deceased is also taking a toll on the deceased's youngest child who does not understand what is happening and keep asking when is his father coming back; **(5)** the deceased was staying with his first born child in his shack and the child has lost all his belongings, including his ID document. The child is psychologically not stable and is now on drugs; and **(6)** the death of the deceased also affected her (Ms Shabangu) financially because she had to step in and assist with the funeral costs because the deceased's wife is not working.

[23] Our country is constantly witnessing an ever-increasing wave of violence against innocent and defenceless victims who continue to fall prey to these types of offences. In an effort to curb the wave of violent crimes which threatens to destroy our society, the legislature enacted section 51 of the Act[11] with the intent to prescribe a variety of mandatory minimum sentences to be imposed by the courts in respect of a wide range of serious and violent crimes, and the relevant section being section 51(1) which have been explained by the court to the accused at the commencement of the trial.

[11] The relevant provisions of the Minimum Sentences Act in respect of the murder conviction is Section 51(1) which provides that:
"Notwithstanding any other law, but subject to subsections (3) and (6), a regional court or a High Court shall sentence a person it has convicted of an offence referred to in Part 1 of Schedule 2 to imprisonment for Life."

[24] After a careful consideration and evaluation of all the evidence before this court, the accused were convicted under this section, and the applicable prescribed sentence is life imprisonment.

[25] In ***S v Msimanga and Another***[12] the SCA held that violence in any form is no longer tolerated, and our courts, by imposing heavier sentences, must send out a message both to prospective criminals that their conduct is not to be endured, and to the public, that courts are seriously concerned with the restoration and maintenance of safe living conditions, and that the administration of justice must be protected.

[26] Having regard to the purposes of punishment, the SCA in ***S v Mhlakaza & another***[13] also pointed out that, "given the high levels of violent and serious crimes in the country, when sentencing such crimes, emphasis should be on retribution and deterrence".

[27] In passing sentence, it is well established that a court has to take into account various considerations in mitigation and aggravation of sentence. The considerations in particular as enunciated in ***S v Zinn*** *supra* finds application in that this court has to take into account the personal circumstances of accused 1 and 2, the gravity of the crime and the interests of the community.

[28] I have in my judgment indicated that the murder of the deceased was premeditated because both accused persons confirmed having discussed that they would confront the deceased at his home. It is on record that upon their arrival there, the deceased was attacked and set alight. In ***S v Di Blasi***[14] the court stated that: "The requirements of society demand that a premeditated, callous murder such as the present should not be punished too leniently, lest the administration of justice be brought into disrepute. The punishment should not only reflect the shock and indignation of interested persons and of the community at large and so serve as a just retribution for the crime but should also deter others from similar conduct."

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[12] 2005 (1) SACR 377 (A).
[13] 1997 (1) SACR 515 (SCA).
[14] 1996 (1) SACR 1 (A) at 10*f-g*.

[29] Not only was the murder of the deceased premeditated, but it was committed in the furtherance of a common purpose. The Constitutional Court in ***Jacobs and Others v S***[15] held:

> *"[71] One of the justifications for the doctrine of common purpose is crime control. As "a matter of policy, the conduct of each perpetrator is imputed (attributed) to all the others". Simultaneously, the doctrine of common purpose assists at the practical level where the causal links between the specific conduct of an accused and the outcome are murky… In Thebus, Moseneke J explained:*
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> *"The principal object of the doctrine of common purpose is to criminalise collective criminal conduct and thus to satisfy the social 'need to control crime committed in the course of joint enterprises. The phenomenon of serious crimes committed by collective individuals, acting in concert, remains a significant societal scourge".*

[30] Having regard to the purposes of punishment and the seriousness of the crime committed by the accused before me, there is no doubt in my mind that the only appropriate punishment for the accused is a sentence prescribed by the legislature. I say this being mindful of the warning given by ***Malgas*** that prescribed sentences are not to be departed from lightly or for flimsy reasons. Nonetheless, this court still has the duty to determine whether the circumstances of this case calls for a departure from the prescribed minimum sentence.

[31] The criminal record of the accused persons reflect previous convictions in which sentences were imposed in 2009 in respect of accused 1 and 2013 in respect of accused 2. The State and the defence are *ad idem* that the accused should be treated as first offenders. I concur with the submission of all parties in this regard.

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[15] 2019 (1) SACR 623 (CC)

Having taken due consideration to the personal circumstances of the accused persons, the only factor in their favour is that they are first offenders.

[32] While Mr Motshwene submitted that the personal circumstances of accused 1 taken cumulatively constitute substantial and compelling circumstances, Mr Moeng on the other hand submitted that accused 2 is remorseful and that his personal circumstances should also be taken cumulatively as constituting substantial and compelling circumstances.

[33] It is on record that both accused have maintained their innocence throughout the trial. It is only during address on mitigation of sentence that accused 2 expressed his remorse through his attorney. In what seem to be an admission of his actions on the lower scale, while attempting to plead mercy, for the first-time during mitigation **–** accused 2 informs the court that *"it was not his intention to kill the deceased".*

[34] Having said that, Mr Moeng submitted that the court should take judicial notice that accused 2 was provoked by the deceased. In my view, this submission is misplaced for two reasons, namely: **(i)** accused 2 did not plead provocation, and **(ii)** there is no evidence before court to suggest that the deceased had provoked him. Neither did he testify to that effect during his testimony on the merits.

[35] With regards to the aspect of remorse, it is trite that if the accused shows genuine remorse, punishment will be accommodating, especially when the accused has taken steps to translate his remorse into action. It is worth noting that remorse should fully be investigated before a court comes to a conclusion whether an accused person is remorseful **–** because true remorse is an important factor in the imposition of a sentence[16]. Remorse is an indication that the accused has realised that a wrong was done and has to that extent, been rehabilitated.

[36] Genuine remorse was correctly described by Ponnan JA in ***Matyityi*** *supra* as follows:

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[16] S v Brand 1998 (1) SACR 296 (C) at 299i-j.

> *"There is, moreover, a chasm between regret and remorse. Many accused persons might well regret their conduct, but that does not without more translate to genuine remorse. Remorse is a gnawing pain of conscience for the plight of another. Thus, genuine contrition can only come from an appreciation and acknowledgement of the extent of one's error. Whether the offender is sincerely remorseful, and not simply feeling sorry for himself or herself at having been caught, is a factual question. It is to the surrounding actions of the accused, rather than what he says in court, that one should rather look. In order for the remorse to be a valid consideration, the penitence must be sincere, and the accused must take the court fully into his or her confidence. Until and unless that happens, the genuineness of the contrition alleged to exist cannot be determined. After all, before a court can find that an accused person is genuinely remorseful, it needs to have a proper appreciation of, inter alia: what motivated the accused to commit the deed; what has since provoked his or her change of heart; whether he or she does indeed have a true appreciation of the consequences of those actions".* (emphasis added)

[37] Having regard to the above principle, I have no idea what motivated the accused to commit this offence and kill the deceased. I am inclined to believe that accused 2 just wanted to get rid of the person who was having a love relationship with his girlfriend. I am also mindful of the evidence of accused 1 that she knew that accused 2 would fight the deceased if he goes to his house. But then again, accused 1, by her own version, was afraid that her secret love affair with the deceased was exposed and accused 2 would be angry.

[38] I concur with the State that accused 2 is not remorseful. I cannot - under the circumstances - find that accused 2 is truly remorseful for his actions. Nothing has been said on behalf of accused 1 regarding this aspect. This court is not in a position

to fully appreciate whether accused 1 is remorseful – when remorse is not expressed and put into action. Accordingly, I agree with the State that both accused persons are not remorseful. This is an indication that both accused cannot be rehabilitated. It is for this reason that the SCA in ***S v Mabuza***[17] recognised that remorse or the lack thereof may be considered when determining sentence.

[39] I therefore align myself with the above authorities which find that the expression of remorse, is an indication that an accused person has realised that - the wrong has been done, and that it will only be validly taken into consideration if he takes the court into his confidence.

[40] With regards to the pre-sentence detention, it is common cause that the accused have been in custody for 1 year and 3 months respectively, awaiting finalisation of their case. However, this does not mean that the court should overlook all other factors which must be taken into account cumulatively, in the exercise of its sentencing discretion. There is no rule of thumb in respect of the calculation of the weight to be given to the time spent by an accused awaiting trial. The SCA in ***S v Livanje***[18] considered the role played by the period that a person spends in detention while awaiting finalisation of the case. The court preferred to reiterate what it had held in ***S v Radebe***[19] namely that: 'the test is not whether on its own that period of detention constitutes a substantial and compelling circumstance, but whether the effective sentence proposed is proportionate to the crime committed: whether the sentence in all the circumstances, including the period spent in detention, prior to conviction and sentencing, is a just one.

[41] It remains the paramount function of this court to exercise its sentencing discretion properly and reasonably in considering what an appropriate sentence should be, in the light of the circumstances of this case. Consequently, the question is whether the period spent by accused 1 and 2 in custody awaiting trial, having regard to the period of imprisonment to be imposed, justify a departure from the sentence prescribed by the legislature. In my view, the time spent by accused 1 and 2 in custody

[17] 2009 (2) SACR 435 (SCA)
[18] 2020 (2) SACR 451 (SCA).
[19] 2013 (2) SACR 165 (SCA) at para 14.

awaiting finalization of their case does not justify any departure as it is not proportionate to the crime they committed.

[42] As far as the issue of rehabilitation is concerned, our courts have over the years warned that given the high levels of violent and serious crimes in the country, when sentencing such crimes, emphasis should be on retribution and deterrence[20]. In affirming that retribution should carry more weight because of the seriousness of the offence which an accused has been convicted of **–** when the court considers the aspects relating to the purpose of punishment **–** the SCA in the case of ***S v Swart***[21] stated that: "In our law, retribution and deterrence are proper purposes of punishment and they must be accorded due weight in any sentence that is imposed… Serious crimes will usually require that retribution and deterrence should come to the fore and that the rehabilitation of the offender will consequently play a relatively smaller role".

[43] *In casu*, the deceased was violently attack and overpowered by two people, who violated his privacy and treated him in a cruel and barbaric manner. As if that was not enough, he was poured with paraffin, set on fire and left for dead. These are aggravating factors which the court cannot turn a blind eye to. Without a doubt, this is one of those cases where the court must be conscious of the fact that the legislature has ordained a specific sentence for the offence which the two accused have been convicted for.

[44] It is without a doubt that the family of the deceased had been greatly affected. The death of the deceased left an indelible mark on them so much so that his eldest child is not copying in school and his sister has to carry the financial burden which she would not be facing today, had the accused not followed the deceased at his home. The deceased was not bothering anyone at the time when he was approached and attacked.

[45] What is so sad and unimaginable is how the accused persons came up with an excuse to go and burn another human being and watch him burning and then

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[20] S v Mhlakaza & another 1997 (1) SACR 515 (SCA).
[21] 2004 (2) SACR 370 (SCA); See also: R v Karg 1961 (1) SA 231 (A).

leave him. They both admitted under oath that when they approached the deceased at his home, they were going on a speculative journey and a fabrication which they thought would sit well in the ears of whoever cared to listen, that it was the deceased who had damaged accused 2's home. To show that there was no truth in their version, they did not even bother to ask the deceased if he was the person who went to accused 2's home to damage his mother's property. The first thing they did when they confronted the deceased was to tell him to leave accused 1 alone because she is in a relationship with accused 2.

[46] There was clearly no reason why the two had to go and attack him knowing very well that there is no history of the deceased having bothered accused 1 before that day because accused 1 herself stated that she had been separated with the deceased for 6 months and the deceased had never bothered her or caused her any trouble. She further testified that the deceased was a kind person and when he was approached, he was very calm. Had there been any sense of decency and humanity in them, they would have assisted the deceased if indeed they did not mean to harm him. This kind of behaviour and criminal conduct cannot be tolerated by the court, and it must be punished.

[47] The court in ***Zinn*** recognized that the interests of the victims should also be considered as the fourth triad where the interest of the community is also an important factor in the balancing effect when sentence is considered by the court.

[48] Regarding the accused's personal circumstances, I am mindful of the warning given by the SCA in ***S v Vilakazi***[22] that: *"In cases of serious crime, the personal circumstances of the offender by themselves, will necessarily recede into the background. Once it becomes clear that the crime is deserving of a substantial period of imprisonment the questions whether the accused is married or single, whether he has two children or three, whether or not he is in employment, are in themselves largely immaterial to what that period should be, and those seem to me to be the kind of 'flimsy' grounds that Malgas said should be avoided".*

[22] S v Vilakazi (576/07) [2008] ZASCA 87; [2008] 4 All SA 396 (SCA); 2009 (1) SACR 552 (SCA); 2012 (6) SA 353 (SCA) at para 58 (3 September 2008).

[49] While the court in ***S v Lister***[23] held that: "*To focus on the well-being of the accused at the expense of all other aims of sentencing such as the interest of society is to distort the process and to produce in all likelihood a warped sentence*", the majority of the SCA in ***S v Ro and Another***[24] held that: *"To elevate the personal circumstances of the accused above that of society in general and the victims in particular, would not serve the well-established aims of sentencing, including deterrence and retribution".*

[50] In considering the appropriate punishment to be meted on the accused, I have taken into account, all the relevant factors such as the personal circumstances of both the accused in mitigation; their lack of remorse; the aggravating features of the offence; the purposes of punishment; and all the other factors to be considered when imposing sentence. In my view, the personal circumstances of accused 1 and 2 are just ordinary circumstances. Consequently, I am of the view that the aggravating factors in this case far outweigh the mitigating factors, and there are **no** substantial and compelling circumstances which warrant a deviation from the imposition of the prescribed minimum sentence. Accordingly, I can find no other suitable sentence other than the one of life imprisonment. I cannot find any justification why this court should deviate from imposing the prescribed minimum sentence.

[51] Having considered the cumulative circumstances of this case, the submissions made by all counsels, and applying the above principles as they relate to sentence, I concur with all the authorities cited above. This court is bound by the doctrine of s*tare decisis* and by statute, and it follows that accused 1 and 2 **must** be sentenced as prescribed by legislature.

[52] In the circumstances, accused 1 and 2, you are each sentenced to life imprisonment.

PD. PHAHLANE
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

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[23] 1993 SACR 228 (A)
[24] 2010 (2) SACR 248 (SCA)

APPEARANCES

For the State	: Adv. Cronje
Instructed by	: Director of Public Prosecutions, Pretoria
For Accused 1	: Adv. J. Motshweni
For Accused 2	: Mr. S. Moeng
Instructed by	: Legal Aid South Africa
Delivered	: 25 April 2024