

Editorial note: Certain information has been redacted from this judgment in compliance with the law.



IN THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, JOHANNESBURG

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

CASE NO: SS68/2021

_____ **30 November 2022**

In the matter between:

THE STATE

And

MALEKA, AGANANG RICHMOND

Accused

JUDGMENT

Mdalana-Mayisela J

[1] The accused is charged on count 1 with robbery with aggravating circumstances as defined in section 1(1) of the Criminal Procedure Act, 51 of 1977 (the CPA) read with section 51(2) of the Criminal Law Amendment Act, 105 of 1997 (the CLAA); count 2 with kidnapping read with section 51(2) of the CLAA; count 3 with rape in terms of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 32 of 2007 read with the CPA and further read with section 51(1) of the CLAA; count 4 with kidnapping read with section 51(2) of the CLAA; count 5 with robbery with aggravating circumstances as defined in section 1(1) of the CPA and read with section 51(2) of the CLAA; count 6 with rape (read with section 51(2) of CLAA); count 7 with assault with intent to do grievous bodily harm; count 8 with kidnapping read with section 51(2) of the CLAA; count 9 with rape read with section 51(2) of the CLAA; count 10 with robbery with aggravating circumstances as defined in section 1(1) of the CPA and read with section 51(2) of the CLAA; count 11 with assault with intent to do grievous bodily harm; count 12 with rape (read with section 51(1) of the CLAA); count 13 with kidnapping read with section 51(2) of the CLAA; count 14 with robbery with aggravating circumstances as defined in section 1(1) of the CPA and read with section 51(2) of the CLAA; count 15 with assault with intent to do grievous bodily harm; count 16 with rape (read with section 51(1) of the CLAA); count 17 with robbery with aggravating circumstances as defined in section 1(1) of the CPA and read with section 51(2) of the CLAA; count 18 with kidnapping read with section 51(2) of the CLAA; count 19 with assault with intent to do grievous bodily harm; count 20 with rape (read with section 51(1) of the CLAA); count 21 with rape (read with section 51(1) of the CLAA); count 22 with rape (read with section 51(1) of the CLAA); count 23 with robbery with aggravating circumstances as defined in section 1(1) of the CPA and read with section 51(2) of the CLAA; count 24 with kidnapping read with section 51(2) of the CLAA; count 25 with rape (read with section 51(1) of the CLAA); count 26 with robbery with aggravating circumstances as defined in section 1(1) of the CPA and read with section 51(2) of the CLAA; count 27 with kidnapping read with section 51(2) of the CLAA; count 28 with rape (read with section 51(1) of the CLAA); count 29 with rape (read with section 51(1) of the CLAA); count 30 with kidnapping read with section 51(2) of the CLAA; count 31 with rape (read with section 51(1) of the CLAA); count 32 with rape (read with section 51(1) of the CLAA); count 33 with robbery with aggravating circumstances as defined in section 1(1) of the CPA and read with section 51(2) of the CLAA; and count 34 with robbery with

aggravating circumstances as defined in section 1(1) of the CPA and read with section 51(2) of the CLAA.

- [2] At the commencement of the proceedings before the charges were put to the accused, the state withdrew counts 1, 2, 3, 10, 11, 12, 13, 14, 15, 16, 30, 31, 32, 33 and 34.
- [3] After the remaining charges were put to the accused and before he pleaded, the court explained to him the relevant provisions of section 51(1) and 51(2) of the CLAA, and he confirmed that he understood same.
- [4] The accused pleaded guilty to all the charges. His legal representative confirmed the plea of guilty. He read and handed in a statement in terms of section 112(2) of the CPA, marked Exhibit A together with the attachments marked exhibits B to J (excluding alphabet I). The accused confirmed the contents of exhibit A and his signature. The state accepted the accused's plea of guilty upon the facts set out in his plea explanation.
- [5] The attachments to exhibit A are as follow:
 - [5.1] Exhibit B – A J88 report for M B T completed by Dr Ngobeni;
 - [5.2] Exhibit C – The DNA results in respect of M B T, M M, S M, L M M, and T M M;
 - [5.3] Exhibit D – A J88 report for M M completed by Dr Molefe;
 - [5.4] Exhibit E – A J88 report for S M completed by the Professional Nurse Mehlomakhulu Wendy;
 - [5.5] Exhibit F – A J88 report for L M M completed by Dr Manaka;
 - [5.6] Exhibit G – A J88 report for T M M completed by Dr Molefe;
 - [5.7] Exhibit H – A J88 report for E M P completed by Dr Molefe; and
 - [5.8] Exhibit J – Captain Kgaugelo Elizabeth Chokoe's forensic DNA Investigative lead report.
- [6] I have considered the contents of exhibit A and its attachments, and I do not intend to repeat same herein. In essence, the accused admits all the elements of the offences he

has been charged with. He also admits that the DNA found in the samples taken from rape complainants matches his DNA. He confirms that his legal representative explained the relevant provisions of section 51(1) and 51(2) of the CLAA and the consequences of his plea of guilty. He states that at the time of the commission of the relevant offences he was in his sound and sober senses. He knows that his actions are unlawful and punishable by law. He pleaded guilty freely and voluntarily and without any undue influence upon him. He has not been promised any benefits in lieu of his guilty plea.

[7] I am satisfied that the accused is guilty of all the offences to which he has pleaded guilty.

[8] In the premises, the following order is made:

1. The accused is found guilty on counts 4, 5, 6, 7, 8, 9, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28 and 29.

**MMP Mdalana-Mayisela
Judge of the High Court
Gauteng Division, Johannesburg**

Date of delivery: 30 November 2022

Appearances:

On behalf of the State: Adv G Market

Instructed by: National Prosecuting Authority

On behalf of the Accused: Mr L Musekwa

Instructed by: Legal Aid South Africa