

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: SS025/2023

DATE: 08-02-2024

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: YES / NO.

(2) OF INTEREST TO OTHER JUDGES: YES / NO.

(3) REVISED.

DATE

SIGNATURE

10 In the matter between

THE STATE

and

BIYELA LINDANI & FOUR OTHERS

Defendant

J U D G M E N T

(Section 174 application)

20 **YACOOB, J:** The State has closed its case in this matter and all five have made an application to be discharged in terms of section 174 of the Criminal Procedure Act.

It is trite that an accused person is entitled to be discharged if there is no evidence against him or her on the basis of which the Court, acting carefully, may convict. It is also trite that although the State cannot rely on the accused

person's evidence in order to secure a conviction, that evidence may be allowed to supplement the State's evidence.

That said there must be sufficient evidence before the Court for the accused to have a case to answer in order for the State to avoid any decision in terms of section 174.

I am satisfied that there is sufficient evidence against accused 1 in respect of all counts against him and his application in terms of section 174 is denied.

10 Against accused 2 there is no evidence at all with regard to count 2, 4 and 5. Even though the State is relying on common purpose, there is no evidence placing him on the scene nor is there any evidence that he was involved in any other phases related to these offences. Even if one were to find that he is associated with the other accused or with other perpetrators, that would not result in a finding that he is involved in these particular counts. His application succeeds in regard to counts 2, 4 and 5. With regard to the remaining counts, I am satisfied that there is a
20 case for him to answer.

With regard to accused 3, there is no evidence associating him with counts 1, 2 and 5 and no evidence that he was involved in planning or in any other parts of the offence even if he was an associate of the perpetrators, this does not lead to a conclusion that he was involved in the

offences. His application succeeds with regard to counts 1, 2, 4 and 5. I am satisfied that there is a case for him to answer with regard to counts 3, 6 and 7.

As far as accused 4 is concerned, no evidence was proffered against him whatsoever. Accused 4 is discharged on all counts.

There is no evidence placing Accused number 5 at the scene in counts 2 and 3 and he is discharged on counts 2 and 3. I am satisfied that he has a case to answer on the
10 remaining counts.

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YACOOB, J

JUDGE OF THE HIGH COURT

DATE: