



HIGH COURT OF NAMIBIA MAIN DIVISION, WINDHOEK

Case No: CC 01/2015

**THE STATE**

and

**EBEN CLOETE**

**Neutral citation:** *S v Cloete* (CC 01/2015) [2017] NAHCMD 256 (7 September 2017)

**Coram:** USIKU, J

**Heard:** 18 April 2016, 20 April 2016, 25 April 2016, 27 April 2016, 21 June 2016, 23 June 2016, 7 July 2016, 17 October 2016, 12 – 16 June 2017, and 11 July 2017.

**Delivered:** 7 September 2017

**Fly note:** Criminal law – Evidence – Alibi – Housebreaking with intent to murder and murder – No burden on accused to prove alibi – Court to assess reliability of alibi on totality of evidence – Value of alibi defence adversely affected where accused raising such defence only for the first time when testifying.

**Summary:** The accused stood charged with housebreaking with intent to murder and murder read with the provisions of the Combating of Domestic Violence Act 4 of 2003. Accused raising an alibi defence only when he testified that he had not been at the deceased's residence, but was on his way to go and search for work on a distant farm.

The state's case was basically one of circumstantial evidence. No eye witness as to the actual stabbing, though there was evidence that the accused was spotted earlier on at the deceased's residence on the date in question. Also that accused had asked the deceased's whereabouts from witnesses with whom the deceased had been sitting prior to her leaving them and entering their home after having seen the accused approaching. Accused seen entering the house where the body of the deceased was later on discovered on the same date.

Held: That the defence of an alibi could not be reasonably true as the accused was spotted entering the deceased's home few hours before the body was discovered.

Held: Further that considering all the evidence as a whole, the only reasonable inference to be drawn is that the accused was responsible for breaking into the deceased bedroom and causing the deceased's death with a direct intent.

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### **ORDER**

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The accused is found guilty of housebreaking with intent to murder and murder read with the provisions of the Domestic Violence Act 4 of 2003. He is therefore found guilty as charged.

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### **JUDGMENT**

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#### **USIKU J:**

[1] The accused is charged with the crime of housebreaking with intent to murder and murder read with the provisions of the Combating of Domestic Violence Act 4 of 2003.

#### **Summary of Substantial facts:**

[2] At all relevant time the accused and the deceased were involved in a domestic relationship in that they had a child together and they were involved in an actual or perceived intimate or romantic relationship.

[3] On Thursday the 13 August 2009 at the Neudam Experimental Farm in the district of Windhoek the deceased upon seeing the accused approaching, entered her room at her parents' house and locked the door from inside. The accused followed the deceased and hit and/or kicked the door open and entered the room where the deceased was. The accused stabbed the deceased at least eight times with a knife or other sharp object whereafter he fled the scene. The deceased died on the scene due to haemothorax caused by the stab wound injuries to her chest.

[4] When charges were put to him, accused pleaded not guilty and opted to remain silent. The state was represented by Mr Kumalo whilst Mr Engelbrecht appeared on behalf of the accused. The following witnesses were called by the state:

### **Evidence**

[5] Mr August Groenewaldt

His testimony is that the deceased was his biological daughter. On the 13 August 2009 he was standing outside his residence on a stoep as he saw the accused talking though he could not make out first what he was saying. He was at a distance of  $\pm$  50 metres from him. The accused uttered words to the effects that "you people will see", which made him to alert the police but he got no response from them.

[6] After he had entered into his house he went to stand next to the kitchen zink, as accused also entered the house with a pocket knife in his hand, its blade was approximately 6 cm long. At the time the deceased stood next to him on the right hand side. Accused started to wash the knife's blade and asked the deceased for his documents. The latter fetched the documents and handed them over to him.

[7] Mr Groenwaldt later left for his work place. At about 11 am one Martha came running at his work place and informed him that the deceased had been stabbed. Mr Groenewaldt together with Martha immediately left for his residence where he observed the accused's documents as well as a blood stained knife laying on the stoep. Upon entering the deceased's room he saw her laying on her stomach in a pool of blood. He also observed that the door to the deceased's room had been broken down. The door had not been broken prior to him leaving for work that morning. He further observed a black adidas sandal which he assumed belonged to the accused.

[8] Patricia Muvarure

She resides at Neudam and knew the deceased as a friend. On the date in question, the deceased had requested her to escort her to her house. She informed her that she was in fear because accused had threatened to kill her. They left for the deceased's house and started to watch television as the deceased's father came in. Accused then entered the house and asked for his documents as he started to wash the knife in the kitchen sink. He demanded his documents which the deceased handed over to him whereafter he left.

[9] After the deceased's father had left for work Patricia and the deceased went and sat outside at the stoep. They were joined by Anton, Bio and Quinton. They started chatting amongst themselves. Whilst busy chatting the accused approached them as the deceased ran into the house where she locked herself inside her room. Patricia followed her to the room but noticed that she had locked herself from inside. She then went into the toilet and also locked herself inside. The toilet is adjacent to the deceased's room.

[10] After a while Patricia left the toilet and met the accused outside. He asked her where the deceased was, and she informed him that she did not know where the latter was, though she knew that the deceased was inside her room. He spoke to her in a low voice and also told her to inform the deceased that he had left the premises and the latter could open the door. Accused reprimanded her that if she did not do as directed she must leave. She opted to leave.

[11] After she had left the house of the deceased, she found Anton alone. It was at that time when she heard a loud noise of something being hit. She ran outside the gate and heard the deceased screaming and asking for help through an open window. As time went on she could no longer hear anything anymore. She then overheard accused speaking in Damara language that he had killed and had finished and he was going to kill himself or words to that effect. Patricia understood Damara language though she could not speak it.

[12] Later on, she followed some workers to the deceased's house and, upon arrival saw the deceased lying face down. She also observed a blood stained knife which lay next to the stoep outside the deceased's house.

[13] Edward Gaeb

He testified that the accused is his biological son. According to him the deceased and the accused were involved in an argument on the 12 August 2009. He could however not tell what the argument was all about. The deceased had also come to him and informed him about their argument. He further testified about accused having threatened to kill the deceased, their child and then kill himself. His further testimony is that accused had also told other people about these threats.

[14] Bio Xoagub

He testified that he is a resident of Neudam farm. The accused and the deceased were his friends. On the 13 August 2009 he together with Quinton, Anton, Patricia and the deceased were seated on the stoep as he saw accused entering the main gate towards the side of the deceased's house. The deceased immediately left for the house as accused asked them why she was leaving and entering their house. At that point in time accused further uttered words to the effect that he will not do anything to the deceased.

[15] Patricia then stood up and followed the deceased into the house. Because Bio and the accused had been involved in a quarrel the previous day, he and

Quinton left leaving Anton alone at the stoep. They went to another house which was about 150 – 200 metres away, from the deceased's house. Whilst there he heard the deceased screaming for help. He later on saw the accused walking bare-chested.

[16] Anton Cloete

He resided at Neudam farm during August 2009. He knew the accused and the deceased. Whilst at the house of the deceased on the morning of the 13 August 2009, he saw the accused approaching. The deceased left them immediately after she had seen accused coming towards their house. After accused had entered the deceased's house, the latter informed him about the accused busy breaking down the door to her room. The deceased spoke to him through an open window. He then left to call Martha and Sofia as requested by the deceased. Upon return he did not enter the deceased's house but remained outside.

[17] Sofia Losper

She too resided at Neudam farm during 2009. She knew the deceased as her God-daughter. She also knew the accused who is her husband's brother's son. Whilst in the company of Martha on the 13 August 2009, they were approached by Anton who informed them that the accused was at the house of the deceased and was busy breaking down the door. They left for the deceased's house but before they arrived, met accused on the road. Accused was bare-chested and wore only one sandal on his foot. He then told them that they "must go and see for themselves as he had finished". Sofia went directly to the deceased's room. There she observed bloody hand prints of a baby crawling on the floor. Upon entering the room she then observed the deceased laying on her stomach inside her bedroom.

[18] There was blood around where she lay and, the deceased's child was playing in blood as he crawled. She did not touch anything but left to call out for help at one Maria's house. Maria arrived on the scene and took the baby, in order to wash his hands at the tap. She also observed a knife next to the stoep.

[19] Martha Afrikaner

She confirmed the testimony of Sofia Losper. According to her, she was approached by her husband Edward who informed her about what the deceased had said concerning threats made against the deceased by the accused. She decided to inform the deceased's parents as she considered the threats to be of a serious nature and ought to be reported to the police. She also confirmed that at the time she met the accused, he was bare-chested. Accused had told them that he had finished, he stabbed her to death and that he was the one that is left or words to that effect.

[20] The following documents were handed in by agreement between the state and the defence as exhibits:

- (a) Pol 51 the identification of the deceased's body by the deceased's father.
- (b) Pol. 54, a sworn affidavit by the officer who identified the deceased's body to the doctor who conducted the post-mortem examination as well as the post-mortem examination report.

[21] Dr Simasiku Kabandje a medical doctor read into record the post-mortem report which he had compiled. The post-mortem findings were as follows: multiple scalp injuries, fatal wounds on the chest along posteriorly at 6 – 7 intercostal space, causing injuries to the left lung. The chief post-mortem findings was that the cause of death was due to stab wound injuries to the chest and haemothorax, which means that the cause of death were as a result of the stabbing from the back side.

[22] Dr Kabandje further testified that the deceased bled internally in the chest as a result of the stab wounds which penetrated her from the back side. The stab wounds as indicated on the diagram and marked "C", "D" and "B" were all penetrating and potentially fatal. There were other wounds on the left arm as well as near the buttocks which were non-fatal.

[23] Those injuries which he had observed on the deceased's body could have been caused as a result of a sharp object having been used, and that the deceased was stabbed from behind. He could only draw blood for comparison purposes upon request by the investigating officer as blood drawing is not done routinely.

[24] Tjinani Maharero

He is a detective sergeant stationed at the Scene of Crime Unit in Windhoek. He has been with the Unit for the past 15 years. He attended several police training programmes at the Patric Iyambo College where he completed theoretical as well as practical training. He was trained on how to take measurements, drawing of crime scenes as well as photography.

[25] On the 13 August 2009 at about 13h00 he was called out to attend to an alleged murder scene at the Neudam Experimental Farm at the Neudam College. Upon arrival on the scene, detective sergeant Job indicated certain points to him. He then took photos whereafter he compiled a photo plan. He identified the photo plan from the negative bearing number 843 Of 2009 with the Hosea Kutako Airport CR 0508 of 2009. The same CR number is also reflected on the Court summons. The photo plan bears his signature on its last page. It features house number E 10 Fedex Memeta farm at the Neudam College. Point "A" on the photo plan indicates the entrance to the house whilst Point "B" indicates the room where the deceased's body was found. Point "D" indicates where the knife, the alleged murder weapon was found.

[26] All points were pointed out by detective sergeant Job. Photo 2, is a close up of point "B" which is the house featuring the room where the deceased's body was found. There is a close up of point "B" where the body of the deceased was found. Photo 4 indicates point "C" which features the body of the deceased as found. There is a circle made around the door handle depicting a broken door without its handle. The reason for making a circle around the door handle was to alert the detective that upon arrival on the scene, the door was broken and there was no handle. Photo 5 is



a close up of point "C" which indicates the body as found also shown on photo 6. There were blood stains inside the room, on the wall as well as behind the door.

[27] The deceased lay at point "C" a distance of 15 metres from where the alleged murder weapon was found. The knife was found near the stoep with the drain on the right hand side and the stoep on the left. The knife could be seen on the ground next to the drain. No measurements were taken between the stoep and the knife, neither between the knife and the drain. Photos 10 and 12 indicates the post-mortem conducted at the police mortuary. The photo plan was admitted as an exhibit before Court.

[28] Mr Maharero persisted that the door to the deceased's room had been broken though he could not say with certainty when that had happened. He also did not observe any blood spots in the corridor. He could not take finger prints from the surface of the knife as it was very rough on the side of the handle. He did not meet the accused on that date after his arrest. At the time the window to the deceased's room had been closed and no one had alerted him about the accused being bare footed in order for him to lift footprints for comparison purposes at a later stage.

[29] Gerhard Dennis Klazen

At the time of the incident he was in charge of Hosea Kutako police station with a rank of warrant officer. He is currently a police officer with a rank of Chief Inspector. On the 13 August 2009 he was called out to attend to a complaint at the Neudam Experimental farm. Upon arrival on the scene he was directed to a house where he found a female person laying in a pool of blood. He observed stab wounds on her body. She had no sign of life.

[30] Upon receiving certain information, he started to follow some footprints which led them into some bushes about one kilometre from the deceased's house. He later found the accused person under a tree. Accused had no shoes on and was bare-chested. He then took the accused back to the house after explaining him the reason for his arrest. Inspector Klazen denied that accused was on his way to a certain farm to look for employment and that he was looking for transport, at the side

of the road due to the fact that the direction in which he walked was into bushes and not in the area where one could reach out to other farms. His testimony is that accused was found totally in an opposite direction from most of the farms. At the time of his arrest accused was completely bare-footed and had no shirt on and was bare-chested.

[31] Mr Klazen persisted that when he returned to the house with the accused he handed him over to other officers who then took over from him. He later drove the accused to Hosea Kutako police station where he was detained. He could not recall if the accused was given some clothing at the police station or not.

[32] Frans Job

He testified that he has been a police officer with rank of detective warrant officer for the past 18 years. He is stationed at Hosea Kutako police station. He came to know the accused as he has been involved in the investigation of the case. On the 13 August 2009 he was on duty as an investigation officer. At about 12 noon he received a call out to attend to a murder scene at the Neudam Experimental farm. He drove and upon arrival on the farm he observed a police van parked at house no E 10. He was then directed to that specific house by Mr August Groenewaldt the deceased's father.

[33] He proceeded to the house where they exchanged greetings and was informed about the alleged murder that took place. After receiving this information he was led into the house by Mr Groenewaldt who indicated to him that the deceased was his daughter. They both went through the corridor towards the deceased's room. The deceased was pointed out to him as she lay on her stomach. Before they went to the deceased's room, he made observations in the corridor where he saw blood marks on the floor, as well as blood prints of a child's feet and hands. These prints moved up and down the corridor.

[34] Having reached the deceased's room he further observed that she lay in a pool of blood, he observed stab wounds on her back. A black adidas sandal was pointed out by Mr Groenewaldt to him which he claimed belong to the accused. He

had a look at the sandal without touching it. He also observed a door which had been damaged. Mr Job further testified that after he had made these observations of a broken door, he moved outside where he met Sofia Losper who alerted him about a knife which had been covered with a drum in order to safe guard it. Whilst waiting for police arrival, he removed the drum and saw the knife. It was a pocket knife that could be opened and closed and had blood stains on it. It was open.

[35] Whilst still busy on the scene an officer from the Scene of Crime Unit, sergeant Maharero arrived. He took him through the scene and started to take photographs of the scene. In the meantime, warrant officer Klazen, sergeant Kataho and sergeant Khoa arrived with the accused, who was bare-footed and bare-chested. Accused was then loaded on the police van. After sergeant Maharero had finished taking photographs, Mr Job collected the sandal from the deceased's room. He also collected the knife from outside the house on the ground. These were then booked in as exhibits under Pol. 7. He identified the knife before Court and demonstrated how it is capable to be opened and closed, describing it as a pocket knife.

[36] Mr Job further testified about a nylon adidas sandal for the left feet which he observed inside the deceased's room after Mr Groenewaldt had pointed it out as possibly belonging to the accused. The sandal was produced as an exhibit before the Court. It had also been booked under the Pol. 7 register and was kept in the safe. The knife was later on removed and taken to the laboratory for scientific examination. Both the application for scientific examination and the exhibits were handed over to the National Forensic Science laboratory for analysis. Mr Job further testified that he interviewed the accused and took two statements from each witnesses after the original docket was stolen from his office which had been broken into during February 2010.

### **Defence Case**

[37] Accused testified that he knew the deceased. They were involved in a domestic relationship and he fathered the deceased's child. They had a happy relationship without any quarrel whatsoever. He knew Mr August Groenewaldt as

the deceased biological father. He confirmed to have visited at the deceased's residence on the morning of the 13 August 2009 which is a distance of about 120 – 130 metres away from his father's house.

[38] Upon arrival at the deceased's residence he met her inside the house whereafter he requested for their child's baptism card and his identification card. They did not have any argument and all was normal. There were three of them inside the house at the kitchen that being himself, the deceased and Mr August Groenewaldt. Accused denied to have been in possession of a knife. He also denied to have washed a knife in the kitchen's sink. According to him, he had told the deceased and her father that he intended to go and take up employment at a particular farm. He was wearing a t-shirt with pants on.

[39] He also knew Patricia, as a daughter of his father's co-worker. He did not see her on that day neither did he have any conversation with her. He also did not meet Anton Cloete who resided at Bio's father's house. Neither did he see or meet Bio. According to accused the door to the deceased's bedroom had been broken all along. It had no handle nor did it have a lock, as such the door could not be locked from the inside. Accused denied to have killed the deceased. The sandal allegedly found in the deceased's room did not belong to him. He had no reason to kill the deceased as they loved each other. They had been in a relationship for the past three years and five months. The deceased did not fear him and as such she had no reason to run away upon seeing him. He denied to have used threatening words against the deceased. He also did not tell anyone that he had killed the deceased and that people must go and see for themselves or words to that effect. Accused denied to have been arrested in the bush and claimed to have been arrested near the road as he waited for transport to go to a farm in search of employment.

### **Analysis of the evidence**

[40] The accused faces a charge of housebreaking with intent to murder and murder. The deceased died as a result of at least eight stab wounds to the chest inflicted from the back. He has denied that he caused the death of the deceased. According to him he was not present on the scene where the crime was committed.

Though admitting to have visited the deceased's residence on the 13<sup>th</sup> of August 2009, accused denied to have returned to the house after he had collected his documents from the deceased that morning.

[41] It is common cause that the deceased's body was discovered on the date in question. Also that there were no eye witnesses to the actual stabbing. The prosecution's case is therefor based on circumstantial evidence.

[42] Patricia Muvarure testified that the deceased had told her about threats being made against her by the accused on the same date the deceased's body was discovered. She also testified that whilst in the company of Anton Cloete, Bio Xoagub, and the deceased, accused had approached them. The deceased walked away and entered their home. She had expressed fear about the accused. Though accused has denied to have met Patricia on the 13 August 2009, Bio Xoagub and Anton Cloete corroborate Patricia's version, that they were seated together when accused arrived and went into the deceased's house.

[43] Patricia went on to testify that she followed the deceased and found her having locked her bedroom door from the inside. She physically tried to open the door which she could not open as it had been locked from inside. The version of accused that he left the deceased's premises in the morning and never return there on the 13 August 2009 is in contrast with the evidence of Anton Cloete who testified that he saw accused entering the house whereafter the deceased informed him about the latter busy breaking the door to her bedroom and asking him to seek help from Martha Afrikaner. He did elert Martha Afrikaner as requested by the deceased. The deceased spoke to him through an open window. It was the accused who had an argument with the deceased on the 12 August 2009 as testified to by Edward Gaeb, the accused's biological father, and no one else.

[44] Sofia Losper and Martha Afrikaner also testified that they met accused on the road on their way to the deceased's house. Though their version differ as to the exact words the accused had told them, they each made reference to the fact that "he has finished and that they must go and see for themselves" – Whilst Martha Afrikaner made reference to "stabbing of the deceased, and that he was the one

left.“ Those words clearly indicated to them that accused had killed the deceased which they confirmed upon arrival on the scene, where the deceased’s body was discovered. It had multiple stab wounds.

[45] All those mentioned witnesses corroborated each other that the accused was seen at the deceased’s home prior to the deceased’s body being discovered with multiple stab wounds inside her bedroom on the 13 August 2009. Accused’s version that he was not present at the house of the deceased as put to witnesses by his counsel is clearly false and stands to be rejected. Both Ms Patricia, Bio Xoagub and Anton Cloete made a good impression on the court, they each recall how accused had arrived as deceased left them. She feared the accused because of earlier threats he had made towards her. Accused’s own biological father and step mother also testified about threats made by the accused against the deceased. The court accepts their version of having seen accused at the deceased’s residence.

[46] It was put to state witness Anton Cloete that he could be the one that killed the deceased. There is no evidence before court to show any motive by Cloete to kill the deceased. Evidence of a witness who had heard the accused threatening to kill the deceased earlier on the 12 August 2009 is relevant in determining whether the accused intentionally killed the deceased or not. The deceased was killed the next day.

[47] Accused was arrested by then Warrant officer Klazen in the bush on the 13 August 2009 after he followed his foot prints. He was heard by Patricia uttering words to the effect that he will kill himself. Upon his arrest, accused was found deep in the bushes by Warrant officer Klazen. He was bare footed and bare-chested. He also had no luggage to suggest that he was on his way to seek employment as he claimed. The only reasonable inference to be drawn from his conduct is that he indeed wanted to commit suicide because of the offence he had committed.

[48] With regard to his alibi defence,

“In *S v Thebbus en Andere*<sup>1</sup> the court held: It is trite that

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<sup>1</sup> *S v Thebbus en Andere* 2002 2 SACR at 566.

- (1) there is no burden of proof on the accused to prove his alibi.
- (2) If there is reasonable possibility that the alibi of an accused person could be true, then the prosecution has failed to discharge its burden of proof and accused must be given the benefit of doubt;
- (3) An alibi must be assessed, having regard to the totality of the evidence and the impression of the witnesses on the court;
- (4) ...
- (5) The ultimate test is whether the prosecution has proven beyond reasonable doubt that the accused has committed the relevant offence.

[49] The accused's testimony of not having been on the crime scene on the 13 August 2009 and that he left his home to seek employment on a distant farm is clearly false because prior to the deceased's body being discovered by Martha Afrikaner and Sofia Losper they saw accused bare-chested. Infact accused told them what he had done at the deceased's house. Accused's alibi defence was raised only at the trial.

[50] As alluded to, the prosecution's case is based on circumstantial evidence and the court must not consider every component in the body of evidence separately and individually in determining what weight should be accorded to it. It is the cumulative effect of all the evidence together that has to be considered when deciding whether the accused's guilt has been proven beyond reasonable doubt.

[51] It was submitted by counsel for the State that the circumstances of this case are such that when each little piece of evidence is put in its place every other reasonable inference is excluded leaving only the inference that accused stabbed the deceased to death. Accused lied about having left his home to go and seek employment on a distant farm. He also lied about where he was arrested by Warrant officer Klazen. He lied about not having met the state witnesses, Patricia, Bio Xoagub and Anton Cloete on the 13 August 2009. From all the above mentioned

facts, the only reasonable inference to be drawn is that it was the accused who broke and entered the deceased's bedroom and murdered her.

[52] Though it is not a requirement for the state to prove motive for the killing of the deceased, evidence led by Mr Edward Gaeb was that accused and the deceased were engaged in an argument on the 12 August 2009 a day prior to the killing. Death threats were made against the deceased by the accused. These threats were of a serious nature which prompted Martha Afrikaner to inform the deceased's parents in order to report a case to the police. The deceased's father tried to call in the police but he got no response on the 13 August 2009, the same date the deceased's body was discovered.

[53] On the issue regarding the accused's intention when he stabbed the deceased. The post mortem findings were multiple stab wound injuries, fatal wounds on the chest. Stab wounds indicated on the diagram and marked C, D and B were said to have been all penetrating and potentially fatal. There were other wounds on the left arm as well as near the buttocks described as non-fatal. In total the deceased sustained eight stab wounds. In the matter of the *S v Bernhard Kashamba*<sup>2</sup> delivered by Liebenberg J, on 3 April 2009, the accused shot his wife resulting in her death. At page 39 of the cyclostyled judgment – Liebenberg J, discussed whether the accused had the required intent when he shot the deceased to death.

*'The court, having rejected the accused's evidence regarding the shooting incident, does not have the benefit of reliable evidence on the subjective state of mind of the accused in other words, to determine what was going on in his mind the time when he fired the shot S v Moheng*<sup>3</sup>.'

[54] In deciding whether the accused had the required intent, the court considered objective factors such as the type of weapon or instrument used, at which part of the victim's body the assault was directed, and the nature of the actual injuries sustained by the victim. Having regard to the above, the type of weapon that was used in this

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<sup>2</sup> S v Gerhard Kashamba.

<sup>3</sup> S v Moheng 1992 NR 220 (HC).



case being a knife; the part of the body where the deceased was stabbed, in the chest which is a vulnerable part of a human body, eight times as per the post-mortem report, leads to only one conclusion that the accused who caused the death of the deceased had a direct intention to kill her after forcefully breaking into her room.

[55] I have therefore come to a conclusion after a careful consideration of all the evidence that the accused's alibi defence is false beyond reasonable doubt and is hereby rejected. In my view the state proved beyond reasonable doubt that the accused is guilty of housebreaking with intent to murder and murder read with the provisions of the Combating of Domestic Violence Act 4 of 2003.

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D N USIKU  
Judge

## APPEARANCES

STATE : Mr Kumalo  
Office of the Prosecutor-General

ACCUSED: Mr Engelbrecht  
Instructed by Directorate of Legal Aid