

REPUBLIC OF NAMIBIA

REPORTABLE

HIGH COURT OF NAMIBIA,
CIRCUIT COURT HELD AT



MAIN DIVISION
RUNDU

JUDGMENT

Case No: CC 05 /2023

THE STATE

v

ANTONIUS SHIKUKUMWA SEMETE

ACCUSED

Neutral citation: *S v Semete* (CC 5/2023) [2023] NAHCMDCR 477 (7 August 2023)

Coram: DAMASEB JP

Heard: 2 – 4 August 2023

Delivered: 7 August 2023

Flynote: Criminal Procedure – Murder read with the provisions of the Combating of the Domestic Violence Act 4 of 2003 – Criminal capacity – Intoxication – Accused failed to lay evidential basis for intoxication – No medical evidence led – Premeditation – Not element of offence of murder – Accused found guilty as charged.

Summary: The accused is charged with the murder of his now deceased uncle (the deceased) which makes the alleged crime one of domestic violence within the meaning of ss 1 and 3 of the Combating of Domestic Violence Act 4 of 2003 in that it is alleged

that the accused unlawfully and intentionally killed Mr Adolf Siremo, an adult male person, by assaulting him with an axe handle.

The accused pleaded guilty at the commencement of the trial but the Court entered a plea of not guilty in terms of s 115(2) of the CPA because he explained that he did not intent to kill the deceased.

The state called three witnesses, one being the common law wife of the deceased, the deceased's mother and a police officer who attended the scene. The wife testified that she heard chopping sounds which woke her from her sleep, when she went outside she witnessed the accused administering his last blow to the deceased's head with an axe handle. The second witness corroborated the evidence of the wife is so far as when she called out for help she also came to witness the deceased laying on the ground. The last witness testified that when he arrived at the scene, the accused could communicate and respond to questioning and he observed him as sober. The evidence of the first witness corroborates and is consistent with the post-mortem report with regards to the cause of death.

The accused maintained that it was not his intention to kill the deceased and that he assaulted the deceased because he provoked him by walking towards him with a stick. He admitted that he caused the death of the deceased and that at the time it was as if he was going crazy and was not aware of his actions. He further testified that he was drunk but not so much as at the time he initially drunk the alcohol.

The only issue that has to be decided is whether the conduct of the accused must be excused by reason of intoxication.

The reason the law requires that the accused lay an evidential basis for a non-pathological defense such as intoxication is that it is an easy defense to put forward and difficult for the state to disprove. The only evidential basis set up by the accused is the period between 12 noon and 13h00 on 31 December 2021. No evidential basis led for intoxication affecting criminal capacity at the time of killing the deceased.

Held that, the assault on the deceased was extremely vicious and his skull was cracked by the accused. No basis laid in the plea explanation that the deceased grabbed a long stick (a dropper) and threateningly approached the accused as if to assault him and it was then that he grabbed the axe handle and begun to strike the deceased. If the latter allegation is intended to support self-defense or defense of provocation, it was not the case that the State was put on notice to meet. It therefore stands to be rejected.

Held that, the reliance on the deceased's alleged aggression towards the accused is an admission the accused was fully conscious of the happenings around him, and renders his defense of intoxication shallow and an afterthought.

Held further that, the nature of the conduct of the accused at the time that he viciously and brutally attacked the deceased and the nature of the injuries can only lead to the conclusion that the accused clearly intended to cause the death of the accused. Accordingly the accused is convicted of murder as charged.

VERDICT

The accused is Guilty of murder read with s 1 and s 2 of the Combating of Domestic Violence Act 4 of 2003.

JUDGMENT

DAMASEB JP:

Introduction

[1] The accused is charged with the murder of his now deceased uncle (the deceased) which makes the alleged crime one of domestic violence within the meaning of ss 1 and 3 of the Combating of Domestic Violence Act 4 of 2003.

[2] It is alleged that on or about 1 January 2022 and at or near Rupara Village, in the district of Rundu, the accused unlawfully and intentionally killed Mr Adolf Siremo, an adult male person, by assaulting him with an axe handle.

[3] The summary of substantial facts in terms of s 144(3)(a) of the Criminal Procedure Act 51 of 1977 (the CPA) states:

'The accused came from a shebeen with the deceased on 1 January 2022 at 02h00. The accused and the deceased were arguing when they arrived at their village. The accused took an axe and chopped the deceased on the head. The deceased sustained a serious injury on the head which caused his death. The accused was in a domestic relationship with the deceased as the deceased was his uncle.'

[4] After the accused stated that he intended to plead guilty (contrary to instructions to his counsel), the court established that he relied on the defence of intoxication. Therefore, the Court entered a plea of not guilty in terms of s 113 of the CPA.

[5] After the not guilty plea, the accused, through counsel, made the following admissions in terms of s 220 of the CPA:

1. That he was present at or near Rupara village in the district of Rundu on 01 January 2022.
2. That the deceased is Adolf Siremo.
3. Sworn Statement of Next-of-Kin (Pol 79) by Mbambi Saara Simbara dated 02.01.2022.

4. The admissibility and contents of the certified copy of the Identity card of the Antonius Shikukumwa Semete.
5. The admissibility and contents of the abridged birth Certificate of Adolf Siremo.
6. Sworn Statement by the forensic pathologist / Affidavit in terms of section 212(4) of the Act 51 of 1977 (Pol 54) by Kayangura J.M dated 03.01.2022.
7. The sworn statement by the medical officer or pathologist /affidavit in terms of section 212(4), Act 51/1977 (POL 52) by DR Ndomba Nekola Jean Clause dated 03 .01.2022.
8. Report on Medico-Legal Post Mortem Examination compiled by Dr Ndomba Nekola Jean Clause Death Register number PM03/2022.
9. The Authority to hand over Post Mortem Examination Report: Report on Medico-Legal Post Mortem Examination compiled by Dr Ndomba Nekola Jean Clause Death Register number PM03/2022.
10. The Authority for the institution of a post Mortem Examination.
11. The Authority to hand over Post Mortem Examination Report.
12. The court of proceedings in Rundu with case number 37/2022, including the proceedings in terms of section 119 of Act 51 of 1977.
13. The Photo-Plan and key thereto by D/Cst Simon in respect of Kahenge CR01.01.2022 dated 16/01/2022.
14. Traditional Axe Handle.

[6] In the light of the earlier statement by the accused, the Court enquired in terms of s 115(2) of the CPA, if he was prepared to admit that he caused the death of the deceased, Mr Adolf Siremo. The defence consented that an admission be recorded in terms of s 220 of the CPA that the accused caused the death of the deceased. The court accordingly made such an order.

[7] The following exhibits were admitted into evidence without the accused's objection and their contents admitted in terms of s 220 of the CPA and duly received and marked as exhibits "A" – "L", including a physical exhibit (axe handle) marked '1'.

1. Indictment – ‘A’.
2. Summary of substantial facts – ‘B’.
3. Accused’s plea explanation in terms of s 115 – ‘C’.
4. The State’s Pre-trial memorandum – ‘D’.
5. Pol 51 identification of body by Ms Mbambi Saara Simbara dated 2 /01/2022 – ‘E’.
6. Sworn Statement of Next-of-Kin (Pol 79) by Mbambi Saara Simbara dated 02.01.2022 – ‘F’.
7. The admissibility and contents of the certified copy of the Identity card of the Antonius Shikukumwa Semete – ‘G’.
8. The admissibility and contents of the abridged birth Certificate of Adolf Siremo – ‘H’.
9. The sworn statement by the medical officer or pathologist /affidavit in terms of section 212(4) , Act 51/1977 (POL 52) by DR Ndomba Nekola Jean Clause dated 03 .01.2022 – ‘J’ .
10. The court proceedings in Rundu with case number 37/2022, including the proceedings in terms of section 119 of Act 51 of 1977 – ‘K’.
11. The Photo-Plan and key thereto by D/Cst Simon in respect of Kahenge CR01.01.2022 dated 16/01/2022 – ‘L’.

[8] The accused is legally represented by Ms Mugaviri on the instruction of the Directorate of Legal Aid while the State is represented by Mr Pienaar of the Office of the Prosecutor-General.

Nature of defence of voluntary intoxication defence

[9] Because of the casual manner in which intoxication is relied upon in our criminal courts, it is important that at the outset and before recording the evidence led at the trial, I set out the parameters of the defence based on intoxication. The leading judgment on

the subject by the Appellate Division (the constitutional predecessor of our Supreme Court) is *S v Chretien*¹.

[10] The *Chretien* ratio is usefully summarised by the learned author Snyman² as follows:

'(c) *The principles laid down in Chretien* The legal points decided by the Appellate Division (per Rumpff CJ) in this unanimous decision can be summarised as follows:

(1) If a person is so drunk that his muscular movements are involuntary, there can be no question of any act on his part, and although the condition in which he finds himself can be attributed to intoxication, he cannot, on the strength of the muscular movements, be found guilty of any crime.

(2) In exceptional cases a person may, because of the excessive consumption of liquor, completely lack criminal capacity and as a result not be criminally liable at all. This will be the case if he is so intoxicated that he is no longer aware that what he is doing is wrong, or that his inhibitions have substantially disintegrated.

(3) . . .

(4) The chief justice went out of his way to emphasise that a court should not lightly infer that because of intoxication X had acted involuntarily or was not criminally responsible or that the required intention was lacking, for this would discredit the administration of justice.' (Footnotes omitted). (My underlining)

[11] Snyman further correctly observes³:

¹ *S v Chretien* 981 (1) SA 1097 (A).

² CR Snyman *Criminal Law* 6 ed Lexis Nexis (2016) at p 220-221.

³ *Ibid* at 223 No. 10 and the case authorities there cited.

'The mere fact that the drunken person does not remember afterwards what he did or intended to do does not necessarily mean that he lacked criminal capacity when he committed the wrongful act. His conduct at the time of the act may lead to the inference that at the time he knew very well what he was doing. It does not automatically follow that, because X had something to drink before the commission of the act, he is entitled to rely on intoxication as a defence. The intoxication can operate in his favour only if it is clear to the court that the liquor had a certain effect on his mental abilities or his conception of the material circumstances surrounding his act'.

[12] Our Supreme Court stated in *S v Hangué*⁴ (approving *S v Chretien*⁵):

'[T]he defence of temporary non-pathological criminal incapacity induced by voluntary intoxication was legally permissible. However, the mere disclosure of such a defence at the outset of the trial, in the absence of any evidence supporting it, would not be sufficient to justify the accused's discharge at the end of the trial. A proper basis for a defence of that nature had to be established on the evidence as a whole for it to be considered.'

[13] It is apparent from the plea explanation that the accused relies on involuntary intoxication and that at the time of causing the death of the deceased he did not appreciate the wrongfulness of his actions.

The burden of proof

[14] The State bears the onus of proving that the accused caused the death of the deceased with the requisite intention. It also bears the onus to disprove any defence relied on by the accused. The accused bears the burden to lay the factual basis for the defence of intoxication and correspondingly the State the burden of disproving the facts relied upon by the accused.

⁴ *S v Hangué* 2016 (1) NR 258 (SC) para 17.

⁵ *Ibid* at para 25-35.

Death caused by the accused

[15] The State has been relieved of the burden of proving that the deceased was killed by the accused. The only question is whether the accused, because of intoxication, should be excused from criminal liability. Since the State relies on the nature of the assault that led to the deceased's death I now set out the findings recorded in the admitted post-mortem report by Dr Ndomba Nekola Jean Clause. The doctor recorded the 'chief post-mortem findings' as: 'Depression on the right lateral side of the head – After opening the head: Commutative fracture of the right parietal bone with subdural haematoma and intracerebral haemorrhage'. The cause of death is recorded as 'Severe head injury'.

Post-mortem report and Photo-plan

[16] The scene of crime photos contained in the photo-plan by the scene of crime detective were admitted by the accused. The photos include pictures taken of the deceased's body in the mortuary where the autopsy was conducted. They depict the deceased lying supinely (face upwards) in a massive pool of blood at the crime scene and gaping wounds to his head. The pictures tell a story of a very violent attack.

The State's case

[17] The state called three witnesses. The common law wife of the deceased, the mother of the deceased (and grandmother of the accused) and a police officer who attended to the crime scene. I will now summarise their evidence in turn.

[18] The first witness to testify was the deceased's wife, Ms Saara Simbara Mbambi Hausiku. According to her, the deceased left home at around midday on 30 December 2021. He went to a cuca shop. At about 2 am in the morning the following day whilst sleeping in her hut, she heard hacking sounds outside her room. She described it as 'chopping' or hacking sounds. The night was well lit by moonlight. At about 15 meters from her room she saw the accused hacking someone who was lying on the ground.

The person lay in a pool of blood and brain matter was protruding from his head. She realised it was her husband on the ground. She asked the accused why he did that to his uncle. The accused was unresponsive and walked away. He was sober when she saw him. She raised the alarm and her mother-in-law (the second state witness) came. The Police then arrived and the accused was arrested.

[19] She also testified that she had known the accused since 2012 when she became amorously involved with his uncle, the deceased. She added that the accused was in the habit of 'disturbing' others at their homestead. According to the witness, when the accused came home in the evening of 31 December 2021, she had offered him food but he declined and said he was going to sleep. She testified that he was walking straight, implying that he was not drunk.

[20] Ms Mugaviri for the accused under cross-examination sought to challenge her version of what she saw when she came out. Counsel sought to do that by putting what she said were her instructions from the accused. Some specific ones were put as follows:

- '1. That you were not in a position to determine whether he was drunk or sober.
2. My client was heavily intoxicated when you saw him.
3. He was very intoxicated as he started drinking at 12 pm.
4. That he and the deceased got into an argument'.

[21] The answers to the accused's 'instructions' were not particularly helpful but the gist of Ms Mbambi's version was not shaken under cross-examination. The essence of her story is that after hearing the sounds already described, she came outside, saw the accused next to a person lying on the ground who turned out to be the deceased.

[22] The witness was also asked if she knew of an argument between the accused and the deceased earlier that day. She replied that she did not.

[23] The second witness to testify was the mother of the deceased, Ms Klementine Sindume, who is also grandmother to the accused. Much of her evidence was irrelevant to the issue in dispute. Be that as it may, she testified that she had seen the accused late in the afternoon on 31 December 2021 when he returned from fetching the family cattle. She testified that he was quite sober when she saw him on that occasion. She could not tell if he was drunk or sober at the time of the death of the deceased. The witness recounted that on 31 December 2021 when she had retired to bed in the evening, she heard from a granddaughter with whom she shares the hut that the accused wanted to borrow her lamp. She refused to lend him the lamp. Later, after she had gone to sleep, and upon receiving a report from her granddaughter, she went outside and found her son, the deceased, lying dead on the ground. She cried out accusing the accused of killing her son.

[24] The last witness for the State was Sergeant Kasanga Gabriel Musange who at the time was stationed at the Border Post. Upon receiving a report in the wee hours of the morning of 1 January 2022, he and other officers went to the scene of crime. There he saw the body of a dead man. He also came across the accused and had the opportunity to observe and to speak with him. According to this witness, the accused was able to understand what he said to him and replied to the questions he posed to him. The sergeant added that the accused was not drunk when he encountered him. He stuck to that version even under cross-examination.

The defence case

[25] The accused testified on his own behalf but did not call any other witness. He is 26 years old. He lives at Rupare village and had done so since he was a child. He lived there with his grandmother, the previous witness, the deceased and witness Saraah Mbambi, amongst others.

[26] On 31 December 2021 he went to plough a field for someone and was paid N\$100. He then returned home to tend to the family cattle. After he moved the cattle in the kraal he went to the cuca shop of one Ngwanda around noon. He did not pass at the homestead. At the cuca shop he bought a 750 ml Black Label beer bottle for N\$ 20. He went to sit under a tree and drank some of it whiling away time to return to the cattle. He left for home and on the way finished the beer. Going back to the cattle he did not meet up with a family member. He drove the cattle towards the river to water them and to graze and on the way finished what was left of the beer. There is Nankali's shebeen nearby where he took the cattle for grazing. He went into it and bought on scale a traditional brew called Katokere to the value of N\$5 and drank it. That was around 13H00. That is the last thing he remembers. (He added in passing that he must have bought and drank more of the brew after the first one).

[27] The next thing he remembers is waking up in the kitchen at the homestead sometime after midnight. He went to the grandmother's hut to ask for a lamp to search for some money he could not find inside his hut. The grandmother refused. He asked for it again with the same result. The grandmother was inside her hut. (This version entirely corroborates the grandmother, Ms Klementene).

[28] It was after he had asked the lamp for the second time that he saw the deceased enter the compound. The deceased must have heard him ask for the lamp from the grandmother because, according to the accused, the deceased 'answered' 'That lamp is not yours' and that 'I should buy my own lamp'. He testified that the deceased also told him to leave the compound and go to his (accused's mother's) place.

[29] The deceased, who proceeded 'to talk a lot of things', then approached him, picked up a dropper and 'threatened to beat me'. It was then that he reached for his traditional axe and started clubbing the deceased. He stated that when he lifted the traditional axe to hit the deceased, he heard the sharp metal part affixed to the wooden handle fall off.

[30] Asked about his state of mind, the accused testified that he was 'not well. I felt like a crazy person. I was drunk'.

[31] At some point, he heard the deceased's wife utter some words to him about killing the deceased. He stepped away from the deceased and moved towards his hut where he left the axe handle. He also heard his grandmother crying out about him killing the deceased. He the recollects the police arrive while he was tied up with a rope and some wire. He said he was tied up by one Chula and Sitoreni. He denied seeing or talking to sergeant Musenge at the scene. He denied that officer's evidence that he was sober. When asked by the Court if he remembers talking to any police officer at the scene he said he did and that one of them in fact asked how old he was.

[32] When further asked about his state of mind, he repeated that he was not well; that he felt like a mad person and did 'not even know anything'. He added: 'Maybe I was possessed by evil spirits. Maybe somebody made me do that'.

[33] It is clear from the accused's testimony that when he woke up in the kitchen after midnight he was, as he put it, 'no longer too drunk' although he was 'still a bit drunk.' He stated that he did not intend to kill the deceased.

[34] Under cross-examination, the accused was challenged that he failed to tell the Court what effect the consumption of the Black Label beer had on him. He retorted that he became drunk from drinking the beer. When asked whether he got drunk from drinking a single beer over an extended period of time, he offered no satisfactory answer. He was also challenged that he did not disclose what the traditional beer is made of and its potency. His answer was that it can make a person drunk.

[35] He also stated under cross-examination that he must have walked home himself from Nankali's shebeen and that he was not transported by anyone. He said that he had shared the brew that he bought at Nankali's with a friend whom he did not name.

[36] Asked about the time he woke up in the kitchen, he testified: 'When I woke up in the kitchen, I was not so drunk. I was under influence but I knew what I was doing. The sleep helped me get better'. When asked if the blows to the deceased's head were 'so hard to cause immediate death' he replied 'yes'.

[37] The Court asked the accused just what his defense is: That he was so drunk he did not know what he did to the deceased or whether he hit the deceased because of what he said to him and threatened to beat him with the dropper? He confirmed it was the latter.

[38] That is the evidence on which Ms Mugaviri for the accused urged me to acquit the accused of murder and set him free. That is so because intoxication as understood in our criminal law is a complete defense to murder.

Submissions

The State

[39] Mr Pienaar submitted that the accused failed to lay a proper basis for the defence of intoxication which the State would have been required to disprove. Counsel submitted that all the evidence shows that the accused was sober when he killed the deceased. He led no evidence of his state of intoxication; there is no medical evidence to support his defence of intoxication; he walked quite normally from Nankali's shebeen back home, and the nature of the injuries inflicted on the deceased are so severe that they must have been inflicted by a person who was possessed of his full mental faculties and strength.

The accused

[40] Ms Mugaviri submitted that the State did not disprove that the accused was drunk from the alcohol he consumed and that it had an influence on him. Moreover, counsel submitted, the State did not disprove the accused's version that he has no

recollection just how much of the traditional brew he consumed at Nankali's and that the inference must be that it was excessive. She submitted further that the accused's concession that he felt better after he slept does not negate the fact that he was still under the influence of the alcohol he had consumed prior to encountering the deceased.

Discussion and disposal

[41] Is the accused's version reasonably possibly true? That the alcohol he consumed on 31 December 2021 negated the intent to kill the deceased? He bore the evidential burden to lay the basis for the defense. If he did the State bears the onus to disprove it beyond reasonable doubt.

[42] The reason the law requires that the accused lay an evidential basis for a non-pathological defense such as intoxication is that it is an easy defense to put forward and difficult for the state to disprove.

[43] It will be recalled that the accused's defense is intoxication – which under the law means that due to the excessive intake of alcohol prior to the alleged commission of the offence, he was incapable of forming the intent necessary to be found guilty of murder which requires proof of intent.

[44] The accused admits inflicting the multiple blows to the deceased's head that resulted in his death. The only issue that has to be decided is whether his conduct must be excused by reason of intoxication. He led no evidence of anyone who saw him in the state of drunken stupor. He led no evidence of anyone about the potency of the traditional brew. He led no evidence – either of his own or someone else – about his history of alcohol abuse and his generally known reputation for violence after alcohol consumption. None of the witnesses who know him were asked in cross-examination to confirm, if this is the case, whether he has a reputation for alcohol abuse and resultant violence.

[45] However tenuous the evidence, the only evidential basis set up by the accused is the period between 12 noon and 13h00 on 31 December 2021. I am prepared to give him the benefit of the doubt that he had passed out from drinking at Nankali's shebeen and has no recollection of events between then and midnight when he woke up in the kitchen.

[46] The evidence led at the trial both by the State and by the accused himself shows beyond a reasonable doubt that when he woke up in the kitchen, he engaged in normal conversation, remembers in granular detail what he did or did not do or say - even to the extent of putting those details as instructions to counsel to be put to witnesses under cross-examination. What is most telling is his admission under oath that when he woke up he knew and appreciated what he was doing. All this shows that the accused's defense of intoxication is bogus and an afterthought.

[47] The assault on the deceased was extremely vicious and sustained. The accused cracked the skull of the deceased. Ms Mbambi's evidence is that she observed brain matter coming out of the head. According to the medical evidence the deceased suffered severe injury to his head and the pictures in the photo-plan show gaping wounds to the skull. The nature of the force used and the extent of the injuries show that the clubbing of the deceased to the head was done with the direct intent to kill him.

[48] At some stage during the trial there was some sterile debate about whether the murder was premeditated or not. Premeditation is not an element of the crime of murder in our law. There are only three forms of *dolus: directus, indirectus and eventualis*⁶. None of them has pre-meditation as an element. The confusion arises perhaps because of the introduction of that concept in South Africa for sentencing purposes in the 1997 amendment to their CPA.⁷

[49] Be that as it may, it is wrong to suggest that premeditation necessarily involves some planning before the crime. Premeditation can occur even few minutes before the

⁶ See *S v Haingura* at para 30.

⁷ Criminal Law Amendment Act 105 of 1997.

event in question as was recognized in *Kekana v The State*⁸, in South Africa under their sentencing regime introduced by the 1997 amendment.

[50] True, as recognised by Snyman, the extent of intoxication may serve as a ground for the mitigation of punishment⁹.

Conclusion

[51] The accused's intoxication defense is clearly an afterthought. In the first place, he has a very vivid recollection of critical events and his interaction with others before, during and immediately after the assault on the deceased. To constitute a defense, intoxication must have been of such a nature that the person relying on it was, by reason of drink, in such a state that he could not have reasonably appreciated the nature of his conduct nor whether what he was doing was right or wrong.

[52] On his own version under oath, he had gone to sleep after he had consumed the one Black Label (750 ml) beer and some local brew called Katokere. He testified that when he woke up from his alleged drunken stupor, he was no longer too drunk and felt much better. He conceded that when he woke up he knew what he was doing. It is common cause on the evidence led at the trial that the fatal interaction between him and the deceased occurred after he had woken up.

[53] He recalls that the deceased inserted himself in a discussion he (the accused) was then having with his grandmother about a lamp, and commanded him to leave the compound and to go and live with his (accused's) mother. The deceased also grabbed a long stick (a dropper) and threateningly approached him as if to assault him. It was then that he grabbed the axe handle and begun to strike the deceased.

⁸ *Kekana v The State* (629/2013) [2014] ZASCA 158 (1 October 2014), para 13.

⁹ Snyman at p 221.

[54] If the latter allegation is intended to support self-defense or defense of provocation, it was not the case that the State was put on notice to meet. It therefore stands to be rejected. On the other hand, reliance on the deceased's alleged aggression towards the accused is an admission the accused was fully conscious of the happenings around him, and renders his defense of intoxication shallow and an afterthought. His defence of intoxication is not reasonably possibly true.

[55] I am satisfied that the accused fully appreciated the nature of his conduct at the time that he viciously and brutally attacked the deceased. The nature of the injuries are such that he clearly intended to cause the death of the deceased.

Order

[56] I accordingly find the accused guilty of murder in that on or about 1 January 2022 and at or near Rupara Village, in the district of Rundu, the accused unlawfully and intentionally killed Mr Adolf Siremo, an adult male person who is his uncle and therefore making the offence one of domestic violence as contemplated by ss 1 and 3 of the Domestic Violence Act 4 of 2003.

P.T. DAMASEB
Judge-President

APPEARANCES:

THE STATE: J W Pienaar
Of the Office of the Prosecutor-General

ACCUSED: G Mugaviri
Instructed by the Directorate of Legal Aid