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IN THE SUPREME COURT OF SOUTH AFRICA
(TRANSVAAL PROVINCIAL DIVISION)

CASE NUMBER: CC. 431/77.

PRETORIA,
3rd MARCH, 1978.

THE STATE VERSUS:

MOSIMA GABRIEL SEXWALE AND
ELEVEN OTHERS.

VOLUME 44

(Pages 2141 - 2155).

THE COURT RESUMES ON THE 3rd MARCH, 1978, AT 2 P.M.

BY THE COURT: Mr. Chaskalson, you put to this witness certain paragraphs from the evidence given by one Shabalala at the previous hearing?

MR. CHASKALSON: Not Shabalala, My Lord.

BY THE COURT: Well, what is his name?

MR. CHASKALSON: I couldn't have mentioned that Shabalala gave evidence. I think I mentioned that Joe Tseto gave evidence at the previous hearing.

BY THE COURT: Just a minute, let me just get this. Wasn't (10) this man mentioned Norman Shabalala?

MR. CHASKALSON: I don't think I mentioned that Norman Shabalala gave evidence at the previous hearing. I said that his name has been mentioned in evidence at this trial. His name has been mentioned.

BY THE COURT: And then you put to this witness what this person had said at the previous trial about this man, is that correct?

MR. CHASKALSON: I don't recollect doing that. If Your Lordship could draw my attention to ..? (20)

BY THE COURT: Well, I have got the name written here, Norman Phineas Shabalala.

MR. CHASKALSON: That is correct. I did mention Norman Phineas Shabalala, and the witness did deal with him and he informed Your Lordship that he was the man who arranged to hire rooms.

FURTHER DISCUSSION IN REGARD TO THE EVIDENCE GIVEN BY THE WITNESS IN CONNECTION WITH NORMAN PHINEAS SHABALALA.

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JACOB SEATHOLO (Still under oath)

EXAMINATION BY MR. CHASKALSON (Continued): Now I think at the adjournment you had indicated how you had arranged to collect (30) the/...

the - to take the Combi and to leave the keys with the petrol attendant when you had finished using it? --- That is correct.

| Now can you tell us what day you collected the Combi?
--- It was on a Wednesday, My Lord.

On a Wednesday. Now I think that the witness, Martha Tseto, who is the wife of Joe Tseto, gave evidence in this case about your being at the house on the Wednesday? --- That is correct.

When she gave evidence she said that on that occasion (10)
Joe Tseto gave some money to you. Can you deal with that?
--- Joe Tseto never gave me money.

Now you told us that you took the car on the Wednesday and where did you go with the Fairmont? --- In the morning I took the pipe to town.

When you say the pipe, is that the brake pipe? --- Yes, the brake pipe.

Yes, and after that what did you do? --- Thereafter I went to the farm.

Yes, and when did you return from the farm? --- On the (20)
Wednesday night.

Can you tell us approximately when you got back on the Wednesday night? --- About ten, half past ten.

Now when you got back was any report made to you in connection with Sammy? --- Yes.

Can you tell His Lordship what that was? --- I was told that Sammy had been taken away by the peri-urban policemen.

BY THE COURT: This Wednesday, what was that date, Mr. Chaskalson?

MR. CHASKALSON: I think we have established that it was the (30)
29th, My Lord.

BY THE COURT: Wednesday the 29th, yes. Sammy was taken by the police. Yes?

MR. CHASKALSON: By the peri-urban police, that is the report he got. Now did you - the neighbour who told you, whose neighbour is that? Is that a neighbour of yours? --- Yes, it is my neighbour.

And did you go down to 7th Avenue at all that evening? --- Yes, I did.

Why did you go to 7th Avenue? --- I wanted to find out if Sammy has been released. (10)

And when you got to 7th Avenue can you tell His Lordship what happened? --- The house was dark. I knocked at the door, I also knocked at the window of the room in which he sleeps, and there was no answer.

BY THE COURT: Now to which house in 7th Avenue did you go? --- No.124, 7th Avenue, My Lord.

MR. CHASKALSON: Now the witness One Night gave evidence to the effect that on that - at about that time he had gone to his farm using a van of yours which he was in the process of repairing? --- That is correct. (20)

And were you aware of the fact that One Night was going to go to his farm? --- Yes.

How were you aware of that? --- My Lord, he told me that his house was set alight at Mabuluka.

And did he tell you that he was going to go to the farm? --- Yes.

And did he tell you what he was going to use to get to the farm? --- He asked me to give him my van.

Where was that van being kept at that time? --- At One Night's place. (30)

And did he ask your permission to use it? --- Yes.

BY THE /...

BY THE COURT: Now what van was this? --- It is my van that was in the possession of One Night.

What sort of a van was it? --- A three-quarter ton pickup van, a Chev, My Lord.

MR. CHASKALSON: Now can you tell His Lordship for what purpose One Night had the van at his house? --- I requested him to keep the van at his place because at one time the wind-screen was stolen from the van.

Yes, but apart from that, was One Night doing any work on the van for you? --- Yes, he was repairing the van. (10)

Can you indicate to His Lordship for what purpose the van had to be repaired? --- Because it was to be taken to the

BY THE COURT: This van is a van different from the International that you told us about? --- It is different from the International that I mentioned.

MR. CHASKALSON: Incidentally apart from that did you also have a Bedford truck which was kept at your farm? --- Yes, it is there on the farm.

Now you said that One Night spoke to you and that you agreed that he could use the van that he was working on to go to the farm and I think you had mentioned that he had said that his house had been burnt down on the farm and he needed to go and see about it? --- (Court intervenes). (20)

BY THE COURT: He said that his house was set alight.

MR. CHASKALSON: Set alight, yes. --- That is correct.

Now do you know whether anybody went with One Night to his farm? --- Yes.

Who was it who went with him that you know of? --- He was accompanied by accused no.3. (30)

How did you know that accused no.3 was going to go with him to/...

him to the farm? --- They were at my house My Lord, when he told me that he is going with accused no.3.

Did you in fact see them leave? --- Yes, I saw them leave.

Now when you came back you said that you went to the house in 7th Avenue to look for Samuel? --- That is correct.

Incidentally, where was accused no.3 meant to be sleeping at that time? --- in 7th Avenue.

BY THE COURT: And the other accused that you said also stayed there, was he still staying there at that stage? That was accused no.2? --- It was accused no.3, My Lord. (10)

But the other accused you mentioned who also stayed there? I think you said it was accused no.2 ... (intervention).

MR. CHASKALSON: It was Chris and David that he mentioned.

BY THE COURT: Yes, accused no.2 and David? --- My Lord, accused no.2 was still staying there but he was now and again leaving and coming back.

And David? --- And also David.

Was he coming and going? --- Yes.

MR. CHASKALSON: Now you told us that you went to the house (20) and it was in darkness and that you couldn't find Sammy. Could you find accused no.3 there at all? --- I did not find accused no.3.

What did you do after that? --- I then decided to go and see as to whether One Night had returned so that I should be able to tell accused no.3. I decided to go and see One Night and Peter, accused no.3, whether they had returned from the farm.

Why did you want to do that? --- I wanted the key from accused no.3.

My Lord, I am not sure how this is going to appear on (30) the record, but what in fact happened was the witness gave that earlier /...

earlier answer, and when the interpreter said - I wanted to tell accused no.3 - the witness corrected him and as a result of that another answer was given.

BY THE COURT: Yes.

MR. CHASKALSON: Now you said you wanted to see whether accused no.3 had a key to the house. --- (Court intervenes).

BY THE COURT: The key to which house are we talking about? --- 7th Avenue, My Lord.

MR. CHASKALSON: Now did you go to One Night's house? --- Yes.

BY THE COURT: Now how did One Night come in possession then (10) of the key at 124, 7th Avenue? --- Accused no.3 was with One Night... (intervention).

So you thought that he may have the key of the house? --- That is correct.

MR. CHASKALSON: Now when you got to One Night's house, can you tell us whether One Night and accused no.3 were there or not? --- Yes, I found them there.

You found them there, and can you tell us what happened when you found them there? --- I asked accused no.3 if he had been to 7th Avenue. (20)

And what did he say? --- He said no, he had not been to 7th Avenue.

Did you say anything about Sammy? --- I said to him I heard that Sammy had been taken away by the peri-urban police.

Did he know anything about that? --- No, it was the first time that ... (Court intervenes).

BY THE COURT: How did you know what he knew? Yes?

MR. CHASKALSON: I mean did he tell you, did he seem to know when you told him that Sammy had been taken away by the peri-urban police, did he indicate that he knew or not? --- My Lord(30) he said that he has not been to 7th Avenue, he did not know about/...

about it.

MR. CHASKALSON: You said you were going to ask him about a key. Did you have any discussion about a key? --- Yes.

And what was the result of that? --- He said he hasn't got the key, My Lord.

Now what happened after that? --- I requested One Night to allow me to leave my Ford at his place.

Why did you do that? --- My Lord, I was afraid that it might be damaged at my premises.

Why did you think it might be damaged at your premises? (10)
--- Because my van stays at One Night's place. On one occasion they had stolen the windscreen of that van.

BY THE COURT: But where did this Ford of yours stay on other nights? --- Which Ford?

The one that you left there? --- That is not my property, My Lord, it was Joe Tseto's vehicle which I borrowed from him.

Yes, I know that, but you wanted to leave this vehicle at One Night's place? --- I left it there.

MR. CHASKALSON: Now you told us that the windscreen of your van had been stolen when it had been at your house. Where (20)
was it stolen, where was the van when the windscreen was stolen from it? --- 6th Avenue on the premises where I stay.

And after that did you arrange for the van to be parked at One Night's place? --- Yes.

And you said you then felt that you should ask One Night to leave the Ford Fairmont at his place that night as well? --- Yes, My Lord.

Was he willing? --- Yes, he was willing.

And what happened, did you leave the vehicle there that night? --- Yes, I left it there. (30)

How did you get to your house? --- One Night took me with the van/...

the van to my house.

Now then the following morning what did you do? --- I woke up and went to One Night's place.

For what purpose? --- To go and fetch the Ford.

And what did you do when you got the Ford? --- I went to town to fetch the pipe from Speedy.

And after you got the pipe what did you do? --- I went back to Alexandra Township.

To what place? --- To my place of residence.

Did you see One Night again that day? --- Yes, I saw him.(10)

When did you see him? --- That day, the same day.

Where did you see him? --- I went to his house.

BY THE COURT: This is now I take it Thursday the 30th?

MR. CHASKALSON: That is Thursday the 30th. And why did you go to One Night's house on Thursday? --- I had to take the Ford Fairmont to the garage, next to where Joe Tseto is employed.

Now did you go to the police station that day? --- Yes.

One Night has given evidence to the effect that you and he drove in two cars to enquire at the police station, you driving the Fairmont and he driving the van. What do you say (20) about that? --- That is correct.

Why did you go to the police station? --- I was looking for Sammy.

Did you go to one place or more than one place to look for Sammy? --- I went to several police stations looking for him, My Lord.

And then after that what happened? --- I then went to town to an attorney.

Now at what stage - did you ever leave the Fairmont at this garage? --- Yes. (30)

Could you tell us when that was, was it before or after you had/...

you had been to the police stations? --- We first went to the Bramley police station.

Yes, and then? --- And then I went and parked the car at the Trek garage.

Alright, now I want to deal with some allegations which emerge in the indictment against you. It is alleged that you harboured, in other words made a house available to terrorists whose names are given as Mosima Sexwale, Naledi Tsiki, Lele Jacob Motaung, Simon Samuel Mohlanyaneng and David Charles Ramusi. Now you have mentioned in your evidence that a (10) person called David and a person called Chris, whom you have identified as Naledi Tsiki, stayed at the house in 7th Avenue? And you have also mentioned that Lele Jacob Motaung, whom you have identified as Peter, stayed at 7th Avenue. And I think you have also mentioned having seen Mosima Sexwale, who is accused no.1 in this case, and Simon Samuel Mohlanyaneng, who is accused no.4 in this case? --- That is correct.

Now what I want to know is, assuming that His Lordship should find that any of those persons were terrorists, did you yourself have knowledge of the fact that any of those persons (20) were terrorists? --- No.

Did any of those persons ever take you into their confidence if that were engaged in political activities, about what their political activities were? --- No.

I think there has been evidence that some weapons were found at the house in 7th Avenue? Were you aware of the fact that there were any weapons in the house in 7th Avenue? --- I did not know about them.

BY THE COURT: What exhibit was that, Mr. Chaskalson?

MR. CHASKALSON: Well My Lord, I seem to remember that there (30) was evidence given by Major Burger and others relating to the arrests/...

arrests but I can't now recollect the precise exhibit numbers, My Lord. Colonel Booyesen who knows the exhibits well is whispering to me Exhibit 26 and I pass that information onto Your Lordship, apparently a bucket.

Now the next allegation I want to deal with is an allegation that you possessed chemicals which could be used for the manufacture of explosives. Now did you ever possess chemicals which ..? --- No, I never possessed them.

Do you remember the witness One Night gave evidence in which he said that you had handed him two plastic packets (10) I think it was containing objects which you said was chemicals? --- I never told him anything about chemicals.

You have heard his evidence that he said that you - that he claims that you handed these chemicals to him and asked him to keep them for you. What do you say about that? --- That is not true.

Now I want to tell you what are alleged to be the chemicals. The chemicals are alleged to be 27 grams of silver nitrate. Have you ever had silver nitrate in your possession? --- No, My Lord, I do not even know what silver (20) nitrate is.

Then there is said to be 100 grams of sulphur? --- I do not know it.

50 Grams of potassium nitrate? --- I do not know it.

Potassium permanganate? --- I do not know it.

Then there is a reference to glycerine? --- My Lord, on one occasion accused no.3 requested me to bring him glycerine from town. It might have been the glycerine I bought for accused no.3. I also bought a child's malt.

A child's malt. That would be relevant to the brewery, (30) My Lord. Did you have any difficulty in buying either the glycerine /...

glycerine or the malt? --- No.

BY THE COURT: When you bought this glycerine did you give it to accused no.3? --- Yes, I gave it to accused no.3.

MR. CHASKALSON: Now finally it is alleged in the indictment that you concealed the Ford Fairmont used by the ANC. Now if His Lordship should find that the Ford Fairmont was in some way connected with the ANC, did you have any knowledge of any connection between the Ford Fairmont which you used on the Wednesday and the Thursday, and the ANC? --- I didn't know about that. (10)

Now I now want to turn to deal with events which took place after your arrest. There has been evidence by Lieutenant De Waal and other policemen that after ... (Court intervenes).

BY THE COURT: Let's just get it, when was he arrested, Mr. Chaskalson?

MR. CHASKALSON: Yes, perhaps you can inform His Lordship when were you arrested? --- On the 31st of December, 1976.

Now there has been evidence by Lieutenant ... (Court intervenes).

BY THE COURT: Now let me just see, that was the day after (20) you had left this car at the house of One Night? --- The van or the car, My Lord?

Well, whatever you left there? You left the car there. You said you wanted to leave the car there which you had obtained from Joseph because you didn't want to take it home, because the windscreen may be damaged? --- That is correct.

MR. CHASKALSON: Now I think, can we just get the sequence correct. Was it the Wednesday night that you left the car at One Night? --- Yes, it was on the Wednesday night.

And I think you told us that the following day you ... (Court intervenes). (30)

BY THE/...

BY THE COURT: He went to collect the car on the Thursday morning I understood him?

MR. CHASKALSON: Yes, you collected the car on the Thursday morning and then on the Thursday you left it at the garage, and was it on the Friday that you were arrested? --- That is correct.

Now Lieutenant De Waal and other police witnesses have given evidence about events which took place after your arrest. Now they say first of all whether you were at one stage asked whether you had any knowledge of a tin which had (10) been left in your garage by accused no.3, and they say that you denied all knowledge of that tin? Do you agree or disagree with that? --- My Lord, I told them that I do not know anything about a tin.

Now they went on to say that at some stage they asked you to come with them to your house so that you could speak to your wife? --- That is correct.

Did you in fact go to your house? --- Yes.

And when you got to your house can you tell His Lordship (20) what happened? --- We went there and the police knocked at the door and called my wife to the vehicle... (intervention).

Now let's just pause for a moment, did you remain in the vehicle? --- Yes, I remained in the vehicle.

And you say that the police called your wife to the vehicle. Did your wife ever come to the vehicle? --- Yes, she came.

Had the police told you what they wanted you to speak to your wife about? --- Yes, My Lord.

And what was it that they wanted you to speak to your (30) wife about? --- My Lord, they said I should ask my wife if there has been no person who got into the garage and removed the tin /...

the tin after I was arrested.

Now as a result did you speak to your wife? --- Yes, I spoke to her.

Now as a result of speaking to your wife, were you able to give any information to the police? --- Yes, My Lord.

What were you able to say to the police? --- I said to them that she says it is One Night that was there and it was One Night who removed the tin.

And after that what happened? --- We then went to One Night.

Now some of the police witnesses have given evidence to (10) the effect that while you were at the house in 6th Avenue, and before speaking to your wife, you admitted knowledge of the tin? --- (Court intervenes).

BY THE COURT: While they were at the car?

MR. CHASKALSON: At the car, yes, before he spoke to his wife? --- That is not true.

And evidence has also been given that you pointed out a certain place to the police in the garage. What do you say about that? --- My Lord, I never got out of the vehicle from the time we arrived at my place. (20)

BY THE COURT: Never what? --- I never got out of the vehicle.

MR. CHASKALSON: Now if I could go back to the evidence given by One Night. He mentioned an occasion on which he said that you showed him a gun in your garage? --- That is not true, My Lord.

Did you have any knowledge that guns were in your garage at any time? --- No.

As far as your garage is concerned, can you tell us whether it is kept locked or unlocked during the day? --- It is not locked during the day. (30)

Now I think you mentioned already that during the week
bottles/...

bottles are kept in the garage. Can you tell His Lordship what else is kept in the garage? --- Four gallon tins I keep in the garage, building material and some of my tools are also kept there.

Now I just want to know who in the ordinary course of events would be likely to go into your garage. Let's deal with the people. For instance would your brother Sammy ever have occasion to go into the garage? --- Yes.

For what purpose? --- Taking the bottles into the garage, or fetching anything he needs out of the garage. (10)

Now you mentioned that accused no.3 used to help you with the bottle business. Would he ever have occasion to go into the garage? --- Yes.

For what purpose? --- He would go and fetch the bottles in the garage or take the bottles and load them onto the truck when they are taken to the breweries.

Would other people connected with your bottle business go in and out of the garage? --- They also go in and get out.

What about One Night? --- One Night is also allowed to go into the garage. (20)

Why would One Night go into the garage? --- My Lord, if he needs some spanners with which he is going to work on my car, he gets in the garage.

Now you have told us earlier about your own responsibilities which take you away from your house. During the month of December were you ever away from your house for any period of time? --- I on one occasion went to Bloemfontein.

For how long were you in Bloemfontein? --- For a week and a few days.

Apart from the occasion when you went to the farm on the (30) Wednesday before you were arrested, were there any other occasions /...

occasions during that month when you went to your farm? ---

Yes, My Lord, I usually go to the farm.

Now the State case seems to be that you either were a member of, or assisted the ANC. I think you have told us that you were not a member of the ANC. Are you aware of - I mean did you on any occasion ever assist the ANC to your knowledge? --- I have never helped the ANC members, My Lord.

I have no further questions, My Lord.

COURT ADJOURNS.

COURT ADJOURNS UNTIL THE 6th MARCH, 1978.

(10)

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