

INQUIRY INTO THE BOIPATONG MASSACREVEREENIGINGDATE: 1992-10-20

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 FORMER CHIEF JUSTICE OF INDIA

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NATIONAL CONGRESS; ANC : ADV D KUNY (SC)
(VAAL) AND THE VAAL COUNCIL : ADV K S TIP
OF CHURCHES

THE COMMISSION : ADV J J DU TOIT

II

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They only consist of poles.

Weren't there vehicles parked there? -- (In the garages)?

In the garages. -- I did not pay so much attention and I do not remember.

You see because another witness, sorry .. (intervenes)? -- I was looking at these Caspirs that I am talking about.

Right now, whilst all this was happening, whilst this group of people were getting into the two Caspirs, what happened to the first two Caspirs? Were they proceeding along Noble Boulevard all the while? -- No they, they had already disappeared (10) ed in Noble Boulevard.

They had disappeared from your vision then? -- Yes.

CHAIRMAN: I think it will be convenient to take the adjournment at this stage.

MR HATTINGH: Yes. Thank you Mr Chairman.

COMMISSION ADJOURNS

COMMISSION RESUMES

CHAIRMAN: You may proceed. I would like to mention that we have considered the issues raised by Mr Kuny this morning and we heard submissions from counsel and we are in unanimous agreement that, in fact, the procedure should be adopted which I suggested (20) was in my provisional view namely that we should continue to call witnesses relevant to the first issue, if I may call it that, the question of the alleged involvement of the police or the defence force in relation to the massacre but if any witnesses are called who have information relevant to any of the other issues, that any counsel, either for the commission or any of the parties will be free to examine as the case may be in respect of those issues, and certainly to avoid the necessity of recalling the witness. I think that should meet the concerns of Mr Kuny and the practical suggestions raised by Mr Mostert. (30)

JOSEPH MOHLONI SELLO: s.u.o. (through interpreter)

CROSS-EXAMINATION BY MR HATTINGH (CONTINUED): Mr Sello before the luncheon adjournment you told us that at the time that the people in the group were getting into the second lot of Caspirs the first two Caspirs had already disappeared from your view. -- Yes.

Now after the people got into the two Caspirs, did they then proceed on their way in the direction of Cape Gate? -- Yes that is so.

And did they also turn right into Noble Boulevard? -- Yes(10) that is so.

Where were those two Caspirs when you saw the Nyala coming along Noble Boulevard? -- (Which two Caspirs? The first two)?

The second two Caspirs. Where were the second two Caspirs when you observed the Nyala travelling along Noble Boulevard? -- They were moving towards Slovo Park on that tarred road when it went past.

And did the Nyala catch up with them? -- It was following them. When they got to the corner where Acro is situated, it was(20) much closer to them and they all disappeared.

They all turned right at that intersection in the direction of Slovo Park, is that correct? -- They continued straight along that tarred road. At the end of the tarred road, there is a gravelled road which they had continued into.

Can I just come back to something that you said earlier today? You said that you could not see the group of people at the corner of Amatola and Seeiso Streets and you mentioned something about a big tree. Were they obscured by a big tree there at that corner? -- (Grape, he said a grape tree). (30)

Sorry/

Sorry? -- (He said a grape tree).

Grape? -- (A grape tree, grape).

CHAIRMAN: A big tree? -- (A grape tree).

It is a grape vine surely?

MR HATTINGH: A grape vine? -- (A grape tree).

MR SITHOLE: A grape vine.

MR HATTINGH: But it was winter, so it had no leaves? -- I do not know.

Now .. (intervenes). -- I do not know whether it had leaves or not. (10)

Now after these police vehicles disappeared from your view, did you then go back to bed? Did you go back to sleep? -- Yes.

But before you fell asleep you heard the sound of gunfire is that correct? -- Yes.

Was that the only noise you heard, only the sound of gunfire? -- It was only the gunshots that I heard.

By the way, you mentioned the fact that you wanted to tell the people in the second two Caspirs about what had happened at your gate. Why didn't you telephone the police? You had a(20) telephone in your house. -- The only telephone numbers I knew are those of the police station where I work in Evaton, which is far away.

Don't you have a telephone directory? -- We do have one.

So why didn't you look up the number of the Boipatong police station or some other police station? -- I did not think about that.

Why did you not phone Evaton police station and ask them to inform the internal stability unit about what was going on in the township? -- This thought did not occur to me. (30)

Alright/

Alright, now let us come back to the noise that you heard after you went back to bed. Did the sound of gunfire, did it sound as though it was getting closer to your house? -- The gunshots that I heard sounded like they were coming into the township.

But did it sound as though it was quite some distance away from your house? -- Yes.

Now your bedroom is at the back of the house, is that correct? -- Yes, it is at the back of the house.

Now the police the next day found that the house immediately behind yours was attacked, windows smashed and so on. Did you hear any windows being broken? -- I did not hear.

In fact, in that block in which your house is, all but five houses behind yours were attacked. You heard nothing? -- I heard nothing.

Do you know a lady by the name of Lydia Mabaso? -- Yes I know her.

She was visiting your mother that night, not so? She was sleeping there? -- (She was sleeping there)?

Yes, at your house. -- She was visiting there yes, and she slept there.

Did she come to your room at any stage during that night? -- No she did not come.

You see the police obtained a statement from this lady and she said that, when she heard the sound of breaking glass, breaking windows at the back of your house, she went into your bedroom and told you about it, but you did not get up. You remained in bed. -- I do not remember this well but after the sounds or the noise quietened down, I fell asleep.

Now I want to show you an aerial photograph of the area (30)

which/

which shows the intersection of Seeiso and Amatola Street and first of all I would like you to indicate to us if you can, where this grapevine is that you spoke about. Whilst we are marking the roads, did you see any barricades in the road that night? -- I saw them on the following day.

Where did you see .. (intervenes)? -- There, there had been logs that my father had, that my father had just outside the fence. These had been removed and they had been put into the street.

Which street? -- Amatola Street in front of our house. (10)

And was that barricade in position at the time that these police vehicles came past? -- I do not know.

Why not? -- When this happened, I was sleeping. I did not notice this when I got up.

Was that the only barricade that you know of, the only barricades on the roads around your house on the night in question that you know of? -- These are the only barricades that I know of.

You see we heard evidence from a witness, a Mr Maesela, who was employed at Cape Gate, to the effect that round about(20) 22:00 he and others, he and a group of others walked along Seeiso Street into Boipatong and then subsequently he went back to Cape Gate and later on he accompanied an ambulance into the area and he has testified that they had to remove barricades in the road, or that barricades in the road had to be removed. -- This is possible. There might have been such barricades. I am only talking about what was the position in front of my parents' home.

So now look at .. (intervenes)? -- I did not, I did not leave the premises of my parents' home that night. (30)

I/

I am sorry Mr Interpreter. Would you now look at that photograph. Seeiso Road's name has been written in there, as well as the name of Amatola. Right at the top of the photograph in the middle. Now can you see the garages there that you spoke about? -- Yes, I do see them.

Can you see that right there, across the extension of Seeiso Street, along where, right there where the garages begin there is a barricade across that road? -- Yes I do see the barricade.

Do you know whether that barricade was there on the night(10) in question? -- I do not know if it was there.

Yes. The area at the Cape Gate main entrance is well lit, isn't it? -- Yes it is lit.

Now I want to refer to the evidence of Mr Maesela again. He testified before this commission on page 315 of the record Mr Chairman, the following question is put to him by myself:

"Can I just go through you with your times again? In paragraph 3 you say you were at the gate of the main factory at about 21:55."

21.55 and he confirmed that. And in fact he said there(20) were quite a number of them at the gate at that time. I then said to him:

"Then you decided that you were going to enter the township in a group. How long did you wait before you actually moved off? (And he said) I think we stood at the gate. I personally arrived there at 21:55 and we stood for about five minutes to eight minutes at the gate. (And then I said to him) And then did you then have enough people together to move into the township (and he said) yes. (And I asked him the next question) And along which (30)

route/

"route did you proceed into Boipatong from the main gate?
(And he said) Seeiso Street, down Seeiso Street."

Now you said it was 22:00 when you went outside to go to the second lot of Caspirs. You know that because you looked at the wall clock? -- Yes, that is so.

And shortly before that the first two Caspirs had gone past and driven towards the main gate of Cape Gate? -- Yes that is so.

You went outside at 22:00 and when you got to the gate, the two Caspirs were there at the juncture of Seeiso and Amato-(10) la? -- Yes that is so.

So if this Mr Maesela was at the gate and if he proceeded from there along Seeiso Street, he should at least have seen those two Caspirs if not the first two as well? Sorry? -- (He says) I am listening to you.

Do you agree with that? Do you agree with it? -- I do not know. It would depend on what he said he saw in his statement. I would not argue with what he says.

I am going to tell you that he says he did not see any Caspirs along Seeiso Street and he did not specifically refer to(20) Seeiso, but he mentioned nothing about Caspirs in that area when he proceeded along Seeiso Street. -- I understand.

Sorry? -- I understand.

You understand? He said he only saw one police vehicle that night and that was a Cortina big six that came driving past Cape Gate's main entrance. -- That is what he saw. I would not argue with what he saw if he says he saw the vehicle.

Now he was not alone at the gate. There were many people there with him and some of those other people will probably give evidence here too and they will also say they did not see (30)

Caspirs/

Caspirs coming along Seeiso Street turning into Noble Boulevard and proceeding towards Slovo Park. -- I do not know that.

I want to put it to you that your evidence is a complete fabrication. You never saw police vehicles on the night in question travelling along Amatola Street turning into Noble Boulevard and from there to Slovo Park. -- No this is what I saw. It is not a fabrication.

No further questions Mr Chairman.

CHAIRMAN: I am not sure, has Mr Sello pointed out where he says the grapevine is? (10)

MR HATTINGH: I am sorry, I forgot about that. I asked him to point out two things. Can you show us the grapevine on that photograph?

CHAIRMAN: It must be the association with Cape Gate ..

MR PRETORIUS: Mr Chairman I do not know whether this will be accepted as EXHIBIT 31 then? I do not know whether .. (inter-venes).

MR HATTINGH: No objection to that Mr Chairman. May I just place on record that that photograph was taken some time the next day?

CHAIRMAN: The next day? (20)

MR HATTINGH: The next day yes.

CHAIRMAN: Is it possible to find out approximately what time?

MR HATTINGH: I am informed by Major Davidson approximately 15:00 the afternoon of the next day Mr Chairman.

CHAIRMAN: In the afternoon? -- The heap of bricks is indicated with an X, second one and further on is the grapevine where I have indicated with another X, circled too. Mr Mostert do you have any questions?

CROSS-EXAMINATION BY MR MOSTERT: No questions.

CHAIRMAN: Mr Visser? (30)

CROSS-EXAMINATION BY MR VISSER: Just a few issues with your permission Mr Chairman. Mr Sello would you look at EXHIBIT 4? You will notice if you look closely that there are some green dots marked on EXHIBIT 4. -- I see the dots.

Now those green dots we have been told, represent the position of the Apollo lights in Boipatong. Do you know what the Apollo lights are? -- Yes I do.

Now if you, if those lights are switched on at night, do they light up Amatola Street where your house is situated? -- The Apollo light nearest to my home does also light up my home(10) and there are also other lights from the firms that also light up my home.

I just want to direct your attention to the Apollo lights and I want to ask you this question. Were they on that evening? -- There was sufficient light, so much that I could see. I did not notice whether the Apollo lights were on or not.

Would you have noticed if they were off? -- I would have been able to see because the lights from the firms were off. I would not have been able to see very far away.

The question is simply this. We are trying to establish(20) Mr Sello whether those lights were on on the particular night or not. -- I understand but could you repeat the question.

Were the Apollo lights burning on the evening of 17 June in Boipatong? -- (In the township ..)?

In the township of Boipatong in Vereeniging. -- I do not know if they were on or not.

The group of people that you noticed outside your house, I want to put to you that you gave two different sets of evidence about whether you could identify any of them, and I want to direct your attention to what you have stated when you said: (30)

"some of the people in the group were known to me and they knew me."

Now is that evidence incorrect? -- It is not correct.

If that is so, then I would like to ask you how you could associate any person or the whole group with anybody who came from Kwamadala hostel? -- When I said, when I said some of the people in that group knew me and I also knew them, I was not referring to the group that was at the gate of my parents' house. I was referring to the other group that wanted to attack me.

On another occasion? -- Yes. (10)

Alright, fair enough. This group at your gate, as we understand your evidence, never attacked your home or any part thereof? -- Yes they did not.

So is it not possible that those people who might have known you to be a policeman may have been people from the vicinity of Boipatong, living in that vicinity? -- No I do not know.

You do not know? It may have been people knowing that you were a policeman, who came to you for help? You would not know? -- No I would not know.

It may have been people who knew you had a telephone with(20) which you could phone the police?

CHAIRMAN: It is not going to help to have one example of speculation on another. I mean .. (intervenes).

MR VISSER: That was the last one in any event Mr Chairman, but you are right. One too many. The last issue is the question of clothing. Can you just .. I think my learned friend did touch on this issue, Mr Hattingh. Which people traditionally wear blankets or don't you know?

CHAIRMAN: Of the people from Kwamadala or the people coming to use the telephone? (30)

MR VISSER: Any people wearing blankets Mr Chairman.

CHAIRMAN: But were you saying do these people traditionally ..
(intervenes)?

MR VISSER: No, I said which people

CHAIRMAN: O which people?

MR VISSER: Which people traditionally wear blankets. I am sorry.-- I cannot explain that.

Can I try and help you? Would you agree if I said that Pondo people normally wear blankets? -- I do not know.

Are you a Xhosa? -- I am Sotho. (10)

I have no further questions in cross-examination.

CHAIRMAN: Mr Pretorius do you have any ..?

RE-EXAMINATION BY MR PRETORIUS: On the second page of your statement, the second paragraph about four lines you say and the next day while you as policemen were walking through the township, there was already a rumour that: we, the police were involved in the attack, is that correct? -- Yes, that is so.

What do you mean by rumour? Why do you say that there was a rumour that: we, the police ..? -- We heard people say this as we were walking there. (20)

Were the police ever been chased, the police as such, ever been chased out of the township? Were they being drive out of the township? -- What was said was that the people no longer wanted us to be staying in the township.

And how did it come that you went back to the township? -- A meeting was held where it was said that the police who had left the township, must come back into the township.

Did you attend this meeting? -- No, I was not present at the meeting.

Is that the same meeting that you talked earlier about of (30)

the/

the VCA, the Vaal Civic Association? -- Yes that was the meeting.

When was this meeting held? -- I do not remember in which month it was.

Just another thing, some of the versions that have been presented here is that earlier in that evening there were some skirmishes between the police and the youth group or the FDU. Do you know anything about the skirmishes earlier the evening? -- I do not know about that.

Right, when Mr Xaba gave evidence at a certain stage, you(10) were sitting on the gallery, is that right? -- Yes.

And then you were asked to leave the committee room, is that right? -- Yes.

And then certain press people came to talk to you, is that right? -- We were just talking.

Did anybody bring you a message? -- No.

Over lunchtime then you looked in your pocket diary, is that right? -- I had it in my, I took it out of my pocket and had it in my hand.

Why? -- I was taking out a piece of toilet paper and I(20) also took out the pocket book which I put back again into my pocket.

You see the coincidence, at that stage Mr Xaba was questioned about his pocket book. -- No that is not so.

I have got no further questions thank you Mr Chairman.

CHAIRMAN: Any questions Mr Sithole?

MR SITHOLE: No questions.

CHAIRMAN: Just one aspect Mr Sello, according to your evidence you knew that the police had assisted the people perpetrating the massacre? -- I did not hear of this that they assisted when (30)

the/

the incident took place.

Assisted the police? Isn't that the effect of your evidence? -- Yes.

Do you agree? -- Yes.

Why do you sound so surprised when I put that to you? -- What I noticed was what took place on the following day, with regard to what we referred to as lykswa, which were moving in and out of the township.

But Mr Sello according to your evidence, you saw people who were involved in this attack, climbing into a police Caspir?(10)
-- Yes.

And you spoke to Mr Xaba, Constable Xaba also the next morning? -- Yes.

He must have told you that, according to what he saw, he also saw police vehicles accompanying the people who were attacking Boipatong? -- What we were discussing was not what I had seen or what he had seen. We only spoke about going into the township to see what had happened.

So you did not discuss with each other what you had seen during the night? -- No we did not. (20)

When did you find out that he also saw that there was a police presence during the massacre? -- It was when we discussed going to Zone 17, which was after I had been grabbed by the group of people.

When was that? -- It was on the Thursday, the 18th.

It was the day after the massacre? -- Yes, that is so.

So that on that day he and you knew that what were referred to as rumour, was true? -- What made us believe is the fact that we saw them taking the dead bodies. This is as they were coming in taking the dead bodies, and going. (30)

MR SITHOLE: He is evading the question.

NO FURTHER QUESTIONS

MR DU TOIT: Mr Interpreter, can we perhaps just use the other interpreter? I consulted with him while I was interviewing the witness.

ABEDNIGO MABUZA: d.s.s. (through interpreter)

EXAMINATION BY MR DU TOIT: Now you are 28 years old is that correct? -- (Just repeat please)?

28, 28 years old? -- Yes.

And you reside on the corner of Lekoa and Tugela Streets, (10) in fact 751 Lekoa Street, is that correct? -- Yes.

Now on 17 June 1992 you were at your home is that correct? -- Yes.

Now before we start with paragraph 1 of your statement, earlier on that evening you in fact witnessed a skirmish between the police and some youths in the township, is that correct? -- Yes.

At what time was it? -- According to my estimation, I did not look at the time, it was about 19:00.

19:00 the evening? -- Yes. (20)

What happened briefly? -- I was sitting outside, I was sitting outside with my friend, and while I was sitting outside then three Hippo's appeared. Two Hippo's came in and drove past my house.

Is that now in Lekoa Street? -- In Lekoa Street.

Yes? -- And the other people went into Amatola Street. When these Hippo's came in, there were some boys standing at the corner.

What corner? -- Amatola ...

And Lekoa? -- Yes. (30)

And/

And what were they doing? -- These boys were just standing there. When these Hippo's came in, they just started shooting.

Who started shooting? -- You see, the first shooting I heard the shooting immediately as the Hippo's were beginning to come in.

Where did the shooting come from? Do you know? -- According to me, this shot came from the police, because these boys had run away, and when they started shooting, my friend and I could not wait outside. We ran into the house. (10)

You and your friend, is that correct? -- Yes.

And how long did you stay in your house before you moved out again? -- I think about two hours we remained in the house.

And then? What did you do then? -- You mean now after the two hours?

Ja. -- Now I had to take my friend halfway back home. We then went out. On our way we met some boys and they told us: gentlemen be careful, it is bad. I asked them what makes it bad. They said the Inkatha, the Inkatha is in, the Inkatha is in.

Where did you meet the boys? -- Just near Hlubi, while I(20) was taking my friend halfway.

What time was that approximately that night? -- About 21:30.

Yes, and then? -- We went up with my friend. He lives in Batswana. I was going to turn back at the corner of Batswana. I would turn back at the corner of Hlubi and Ngwenya, and when we were about to part with my friend, and he said I must be careful as I am now about to go home. He says I must not walk up to the corner, I had better get into the (inaudible) and jump over. Then in, jump over into Tugela, so I can reach my home. (30)

Did/

Did you then meet the boy by the name of Sibesishwe? --

Yes.

Where was that? -- You see I did not take up the (inaudible). I did not jump over as my friend suggested. I walked straight up to the corner of Hlubi and Lekoa. When I arrived there, I saw a young boy coming on, walking, falling and walking, falling.

From what direction? -- From the direction of the shops. I then ran to this boy. When I came to him, I found that he was full of blood. I asked him what is wrong and he said: they are(10) coming, they are coming. Well I realised because I had already heard that there was an attack in the location. I thought this means this boy had been attacked. I then asked this young boy: where are you going to. Then he said to me: I am going to father Msibi. Now Mr Msibi's house at 757 Hlubi, they are my neighbours. I took this young boy quickly and I ran to that house. On my arrival there, when I knocked, when they were about to open the door for me, when I looked on my left I saw many people and at that time I heard them saying: here is a dog, here is another dog. (20)

Where did you see the people? Where did they come from? -- I saw them coming from the direction from the corner of Lekoa and Hlubi.

Did they move up into Hlubi Street? -- Yes coming up in Hlubi.

And they were a group of about how many people? -- I could not count them, but if I have to estimate, they were about 50.

What did they wear? -- Others had white T-shirts, had white bands on their heads. Others, some of them had overalls(30) on. Are/

Are you in a position to identify whether they are black or white people in the group? -- Well the majority of them were black people. I did not see a white man.

Right, you went now to the house, and one said: here is another dog, and what happened then? -- I then said to the people inside the house that they must not open the door. I then walked round to the back of the house with Sibesishwe. My aim was that, when I come behind the house, I would be able to jump over the fence with Sibesishwe. When I looked at the fence, I found that the fence was too high, and when I looked, I noticed(10) that there was no other place where I can get into. Then I saw a shack. I then got into it and while I was sitting in that shack, I could see them coming in. They were looking around. Now where I was there was a shade, it was dark. They looked around for me. They walked out, they could not find me. And at that time, there was shattering of windows. I kept quiet and I noticed that they had gone round. Now I had a chance because from where I was, I could see what was happening. I could see two houses. I could see that there are those people. You see but when I looked I was afraid, thinking that perhaps some of these people had not left(20) there. They were still there. I waited a moment, I looked and I realised that it would seem that all the people had walked past and there was no-one else. I then said to Sibesishwe, I said: Sibesishwe, remain seated here. I am going to look and see whether there is nobody else who is coming on. When I came out of this shack, there is, there is a fence in the yard. I jumped over this fence. I walked up to the corner of the house. I was looking at this group, whether they are all gone, and that I could see them, not a long distance. I could see them going up.

Up where? -- When I looked on this side (just a minute). (30)

Up/

Up where did you see them? -- They were walking up in the direction as to leave the location, in the direction of Kwa-Madala. When I looked at the side, I noticed that goodness, there is a big gang that is coming on and this gang which is coming on, is followed by a Hippo from behind.

Now where did you see the second gang? -- You see, I am standing at the corner. They were just about to come into the second house.

And in what street now? In what street now? -- In Hlubi Street. (10)

From the direction of what street? -- You see what made me to think that they come from, that they are coming from Lekoa is because of the Hippo which was following them, because it was just taking the turn.

To the left or to the right moving from Lekoa Street now into Hlubi Street? -- They were turning to the right.

How many people were in this second group? -- About the same group as the previous one.

Yes, and then? -- I ran back to the place where I was hiding. I said to Sibeshwe: Sibeshwe, you must keep quiet. (20) Another group is coming.

Right, before you go on there, how long after the first group moved, did you see the second group with the Hippo behind it? -- According to me, about a minute or one and a half minutes round about. It was a very short time.

How do you know that it was a Hippo that was behind them? -- I saw it when it appears there and turned in, and I also saw it as it drove past while I was hiding myself, because now at the second time, I was able to sit there and watch, because nobody was aware that I was there. (30)

Would/

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