



HIGH COURT OF NAMIBIA MAIN DIVISION, WINDHOEK

JUDGMENT

Case no: CC 17/2018

In the matter between:

<b>MAMSY MWENENI HILMA NUUYOMA</b>	<b>1<sup>ST</sup> APPLICANT</b>
<b>BENVINDO MOMAFUBA</b>	<b>2<sup>ND</sup> APPLICANT</b>
<b>PEMBELE ZIMUTU</b>	<b>3<sup>RD</sup> APPLICANT</b>
<b>NOAQUIM PEDRO ESPANHOL</b>	<b>4<sup>TH</sup> APPLICANT</b>
<b>JOAO MANUEL DOS SANTOS</b>	<b>5<sup>TH</sup> APPLICANT</b>
<b>TATIANA LUQUENA MUCHADU GONGA</b>	<b>6<sup>TH</sup> APPLICANT</b>
<b>CARLOS VICTOR ELISEU</b>	<b>7<sup>TH</sup> APPLICANT</b>
<b>ISAAC CATIVA CUPESSALA</b>	<b>8<sup>TH</sup> APPLICANT</b>
<b>PAQUETE AMERICANO KAPOYOLA JOSE</b>	<b>9<sup>TH</sup> APPLICANT</b>
<b>CARLOS FELIANO TCHINDUKU</b>	<b>11<sup>TH</sup> APPLICANT</b>
<b>AURELIO NELSON SARAYELO MIAPA</b>	<b>12<sup>TH</sup> APPLICANT</b>
<b>LUCIO JOSE CAZEMBE</b>	<b>13<sup>TH</sup> APPLICANT</b>
<b>NOAH BOYKIE NGHIPONDOKA NAUKOSHO</b>	<b>14<sup>TH</sup> APPLICANT</b>

and

**THE STATE**

**RESPONDENT**

**Neutral citation:** *Nuuyoma v S* (CC 17/2018) [2020] NAHCMD 277 (30 June 2020)

**Coram:** MILLER AJ  
**Heard:** 6, 11, 14 May 2020  
**Delivered:** 30 June 2020

**Flynote:** Criminal Procedure – Trial – Close of State’s case – Application for discharge of accused persons in terms of s 174 of the Criminal Procedure Act 51 of 1977 – Court followed the principles established in *S v Nakale* and *S v Teek* – Accused 6 found not guilty and discharged from prosecution in terms of s 174 – Accused 1, 4, 5, and 14 discharged on some counts but will stand trial on the remaining charges – Application for accused 2, 3, 7, 8, 9, 11 and 12 was dismissed and will face all the charges brought against them by the State.

**Summary:** Accused persons are facing 629 charges of fraud and theft, as well as contravention of the Prevention of Organized Crime Act 29 of 2004 (POCA) and contravention of the Anti-Corruption Act 2 of 2003 – The State called witnesses, led evidence and at the close of the case for the prosecution, accused 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, and 14, except accused 10 brought an application in terms of s 174 of the Criminal Procedure Act 51 of 1977, which provides that ‘if, at the close of the case for the prosecution at any trial, the Court is of the opinion that there is no evidence that the accused committed the offence referred to in the charge or any offence of which he may be convicted on the charge, it may return a verdict of not guilty’ – The Court followed the principles laid down in case of *S v Nakale*<sup>1</sup> and case of *S v Teek*<sup>2</sup> – The Court found that there is no evidence that accused 6 committed the offence referred to in the charge or any offence of which she may be convicted on the charge, and returned a verdict of not guilty in terms of s 174 of the Criminal Procedure Act 51 of 1977 – In terms of the same section, the Court discharged accused 1 and 4 on count 286, accused 5 was discharged on count 625 and count 626, and accused 14 was discharged on count 629, but the Court refused their s 174 application on the remaining charges – The Court found that accused 2, 3, 7, 8, 9, 11 and 12 have a case to answer on all the charges they are facing and dismissed their application in terms of s 174 of the Criminal

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<sup>1</sup> 2006 (2) NR 455 (HC).

<sup>2</sup> 2009 (1) NR 127 (SC).

Procedure Act 51 of 1977 – The evidence led so far, unless contradicted, establishes sufficient evidence upon which a reasonable Court acting carefully might convict the accused on the preferred charges.

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### ORDER

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1. Accused 6 is discharged on count 286 and from prosecution in this case in terms of s 174 of the Criminal Procedure Act 51 of 1977.
2. Accused 1 and 4 are discharged on count 286, but for the remainder of the charges of the application to be discharged in terms s 174 of the Criminal procedure Act 51 of 197 is dismissed.
3. Accused 5 is discharged on count 625 and count 626, but for the remainder of the charges the application to be discharged in terms s 174 of the Criminal procedure Act 51 of 197 is dismissed.
4. Accused 14 is discharged on count 629 but for the remainder of the charges, the application to be discharged in terms s 174 of the Criminal procedure Act 51 of 197 is dismissed.
5. Application for accused 2, 3, 7, 8, 9, 11 and 12 to be discharged in terms s 174 of the Criminal procedure Act 51 of 1977 is dismissed.
6. The matter is postponed to **24 August 2020**, at **09h00** for continuation of trial.

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### JUDGMENT

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MILLER AJ:

## Introduction

[1] The accused are standing trial on 629 charges of fraud and theft, as well as contravention of the Prevention of Organized Crime Act 29 of 2004 to which I shall refer to where necessary as 'POCA' and contravention of the Anti-Corruption Act 8 of 2003, to which I shall refer simply as the 'ACC' Act. The accused persons in this matter are as follow:

Mamsy Mweneni Hilma Nuuyoma (1<sup>st</sup> accused)  
Benvindo Momafuba (2<sup>nd</sup> accused)  
Pembele Zimutu (3<sup>rd</sup> accused)  
Noaquim Pedro Espanhol (4<sup>th</sup> accused)  
Joao Manuel Dos Santos (5<sup>th</sup> accused)  
Tatiana Luquena Muchadu Gongga (6<sup>th</sup> accused)  
Carlos Victor Eliseu (7<sup>th</sup> accused)  
Isaac Cativa Cupessala (8<sup>th</sup> accused)  
Paquete Americano Kapoyola Jose (9<sup>th</sup> accused)  
Malaquias Tomas Rufino (10<sup>th</sup> accused)  
Carlos Feliano Tchinduku (11<sup>th</sup> accused)  
Aurelio Nelson Sarayelo Miapa (12<sup>th</sup> accused)  
Lucio Jose Cazembe (13<sup>th</sup> accused)  
Noah Boykie Nghipondoka Naukosho (14<sup>th</sup> accused)

[2] The Indictment sets out in respect of each accused which charges preferred relate to them individually and there is no need to deal with that aspect any further.

[3] Upon being arraigned the accused all pleaded not guilty to the charges preferred against them. None of the accused made any statement in terms of s 115 of the Criminal Procedure Act 51 of 1977.

[4] The State called a number of witnesses whose evidence I will refer to in due course, where after the State closed its case. Each of the accused, except accused 10

then applied for his or her discharge within the statutory framework of s 174 of the Criminal Procedure Act 51 of 1977 ('the CPA'). This judgment is concerned with the adjudication of those applications.

[5] Counsel for the State submitted at the outset that the State is no longer proceeding in respect of some of the counts. These are count 119, count 126, count 422 to 426, count 487, count 488, count 490, count 496, count 499, count 506, count 507, count 510 to 512, count 514 and count 623. I may also add that count 365 is also not proceeded with. In respect of those counts the accused who stand trial on those counts are discharged in respect of each of those counts. I will in due course also refer in more detail to counts 629.

[6] Prior to the commencement of the trial before me, I appointed two assessors in terms of s 145 of the CPA, being Mr Mandi and Ms Bötger respectively. This being an application for the discharge of the accused in terms of s 174 of the CPA, the question arises whether in dealing with the application, I should sit with or without the assessors. I was not able to find any case law in Namibia which deals with the issue at hand.

[7] The topic was however the subject of some decisions in South Africa where the practice of sitting with assessors is more common and was at some stage compulsory in certain cases. The cases I consulted were *R v Momezulu & Others*<sup>3</sup> and *S v Magxwalisa & Others*<sup>4</sup>. In both two matters it was held that an application for discharge at the close of the State's case is a question of law to be decided by a Presiding Judge. In the result, I proceeded to hear the application in the absence of the assessors since I am in agreement with the decision reached in the cases I have referred to.

#### Section 174: The Court's approach

[8] The decision to discharge an accused at the close of the State's case or whether to refuse to do so is a matter in respect of which I must exercise a judicial discretion. The law on this issue is well settled and to the effect that a Court will refuse an

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<sup>3</sup> 1955 (3) SA 557 (N).

<sup>4</sup> 1984 (2) SA 314 (N).

application if there is evidence upon which a reasonable Court may not convict. In so doing, the Court will take into account both the direct and circumstantial evidence produced by the State.

[9] This approach is apparent from the judgment in *S v Nakale & Others*<sup>5</sup> and *S v Teek*.<sup>6</sup> Some argument was advanced that it would not be correct to consider and take into account whether the State's case may be strengthened by evidence tendered by the defence. In my view, the law as it stands in Namibia is as expressed in *S v Nakale & Others*<sup>7</sup> to which I have already referred and I refer specifically to the passage appearing on page 464 and further. Muller J who wrote the judgment held that to be a consideration taking into account other factors that appear from the evidence such as a reasonable inference in the case of more than one accused and where there appears to be some common purpose or I may add cooperation or collusion in some form or another between those charged and towards some criminal endeavor.

[10] Moreover in the present case, I am not faced with the situation whether the success or otherwise of the prosecution is dependent solely on whether or not any of the accused goes into the witness box and implicate himself or herself. As I will indicate there is by and large evidence against each of the accused upon which a reasonable Court may convict subject to what I rule in so far as some of the accused are concerned in relation to some of the specific counts. I am therefore of the view, that it would be wrong to hold that the possibility, and I put it in no higher than that, that when testifying, some of the accused in presenting their own case may in the process seek to implicate their co-accused should lead to the discharge of the accused in the present proceedings.

#### The Legislative framework and its application

[11] In terms of the Value-Added Tax Act 10 of 2000, purchasers of most goods in Namibia are required to pay a value-added tax based upon a percentage of the

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<sup>5</sup> 2006 (2) NR 455 (HC).

<sup>6</sup> 2009 (1) NR 127 (SC).

<sup>7</sup> 2006 (2) NR 455 (HC).

purchase price of the goods purchased. However, a foreign national who purchases goods in Namibia and then exports the goods is entitled to reclaim the value-added tax paid, once the goods are exported. This function rests ultimately in the Ministry of Finance.

[12] According to the evidence, the function of administering the claims for value-added tax refunds was sourced out to Aveshe Consulting Service (Pty) Ltd (hereinafter referred to as 'Aveshe'). It was the function of Aveshe to receive claims, to check the particulars provided and if satisfied, to forward the claims to the Ministry of Finance for approval. Once approved by the Ministry of Finance, Aveshe will arrange for the payment of the claims submitted. A claim for a value-added tax refund will typically require the completion of the VAT24 form, a copy of the passport of the claimant, the sales invoice or invoices and proof of export of the goods purchased. Proof of export of the goods purchased requires the submission of a SAD500 Declaration form that the goods were in fact exported from Namibia, which form must be included as I indicated with the other documents when the claim is submitted.

[13] It is the case for the State that fraudulent claims were submitted by accused 2, 3, 4, 5, 7, 8, 9, 10, 11, 12 and 13. I pause to indicate that accused 13 is presently at large and I will not deal with his case any further. These claims were all submitted to Aveshe together with the supporting documents to which I have referred.

#### The facts giving rise to the charges

[14] Acting on information it had received, the ACC arranged with Aveshe to summon the claimants to the offices of Aveshe, ostensibly for Aveshe to make payment in respect of the claims submitted. The meeting was scheduled for 1<sup>st</sup> December 2015. It is not disputed that accused 2, 3, 4, 5, 7, 8, 9, 10, 11, 12 and 13 attended the meeting. They were arrested at the premises of Aveshe together with accused 1 by members of the ACC and the Namibian Police Force. A large number of documents were seized. Accused 1 once arrested, was escorted to the flat where she resided with accused 14 at the time. A search was conducted and further documents allegedly in her possession

were seized by the Namibian Police and handed over to the ACC. The admissibility of that part of the evidence was challenged by accused 1. Following a trial-within-a-trial, I ruled in a separate judgment that the evidence was admissible. I will consider in more detail the extent and impact of this evidence when I deal specifically with the application for the discharge of accused 1.

[15] Accused 6 and 14 were arrested at a later stage as the investigation unfolded and I will deal with that in more detail when I consider their application.

The case against accused no. 2, 3, 4, 5, 7, 8, 9, 11 and 12

[16] I turn to deal with the application for discharge of accused 2, 3, 4, 5, 7, 8, 9, 11 and 12. It is convenient and sufficient for present purposes to deal with these applications together. The evidence in respect of these accused follows by and large a similar pattern. In respect of each of them, the evidence establishes that value-added tax refund claims were submitted to Aveshe together with the VAT24 form bearing at least the names and particulars of the accused, the relevant sales invoices, copies of their passports and in respect of each claim and SAD500 Declaration.

[17] It was contended on behalf of these accused that there is no sufficient evidence adduced that the SAD500 Declarations submitted by the accused concerned were false, and for that matter, that the accused in fact submitted the claims to Aveshe. In regard to the first aspect, the State called Mr Paul Lorencius Nakhom as one of its witnesses. Mr Nakhom is employed by the Ministry of Finance as the System's Administrator of the so-called Assycuda System. The Assycuda System is a computerized program which generates and stores SAD500 Declarations and the particulars recorded on them. It is not freely available and only persons such as customs officials and clearing agents had access to this system once they are authorized to do so.

[18] The evidence of Mr Nakhom is to the effect that he was asked by the ACC to compare the SAD500 Declarations submitted when the claims were lodged with Aveshe, to what appears on the Assycuda System. His evidence is that once he



undertook that exercise, it became apparent that the SAD500 Declarations submitted to Aveshe differ in several respects to the corresponding SAD500 Declarations on the Assycuda System. Mr Nakhom testified in respect of each SAD500 Declaration submitted and pointed out the differences between what appeared on the Assycuda System and the SAD500 Declarations submitted to Aveshe. They include *inter alia* the particular 'C' number allocated to each Declaration, the particulars of the claims, the goods purchased, the suppliers and the particulars of the clearing agents. Moreover, his evidence is that in respect of each Declaration on the Assycuda System, there appears an assessment number or as he put it, an 'A' number. That number according to him is allocated once the goods are physically exported. The assessment number is, according to his evidence, absent from the Declarations submitted to Aveshe, whereas they appear on the SAD500 Declarations on the Assycuda System.

[19] Counsel for the accused submitted that it was incumbent on the State to produce the original SAD500 Declarations. By that, I understand them to mean the printed document rather than what appears on the computerized system. It was also submitted that the clearing agents whose particulars appear in the Declarations submitted should have been called. Absent this evidence, it was submitted the State had failed to make out a case on that score. It was also submitted that the State had failed to prove that in respect of at least some of the accused, that the accused submitted the claims to Aveshe or were instrumental in one way or another for the claim being submitted.

[20] As far as the SAD500 Declarations on the Assycuda System are concerned, I am inclined to follow the reasoning adopted by this Court in *S v De Villiers*<sup>8</sup> and I conclude that the evidence of Mr Nakhom establishes at least on a *prima facie* basis that the Declarations submitted to Aveshe were false. There is further corroboration for this fact in the sense that several of the suppliers testified that they did not sell the goods which were purportedly exported as indicated on the invoices and the SAD500 Declarations submitted to Aveshe. I do not agree that the failure to call the clearing agents is fatal to the State's case. Once it is accepted that the SAD500 Declarations submitted are false in one or more respects, the inference may well be drawn that they are false in other

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<sup>8</sup> 1992 NR 363 (HC).

respects as well, including the details of the clearing agents appearing on them. There is further corroboration on this score in as much as the SAD500 Declarations found in the possession of the accused were identical to SAD500 Declarations used to submit claims in other instances, for example 'Exhibit YYYY18' and 'Exhibit DD5'.

[21] There is also evidence that more than one SAD500 Declaration was used in some cases to export identical goods on more than one occasion. I find that in respect of these accused, a reasonable Court may find that the claims submitted to Aveshe were false, in as much as the goods specified were either never purchased or in any event never exported. It is correct that in some cases the VAT24 documents submitted do not bear the signature of a person purporting to be one of the accused. It is however evident that in each case a copy of a passport of the accused concerned was submitted together with the other documentation.

[22] Apart from that, the evidence is that each of the accused attended the meeting at the offices of Aveshe on 1<sup>st</sup> December 2015, ostensibly to receive payment in respect of claims submitted. In these circumstances, a reasonable Court may draw an adverse inference which may lead to the conviction of the accused concerned. It follows in this regard, subject to what I may say later, the applications of accused 2, 3, 4, 5, 7, 8, 9, 11 and 12 are refused.

#### The case against accused no. 1

[23] I turn to consider the case against accused 1. Accused 1 was employed at Aveshe at the time. Her functions included amongst others checking VAT refund claims submitted by clients. The evidence established that she checked some of the claims submitted, which form the subject of some of the charges. However, she was not alone in doing so. Some of the claims were checked by other employees.

[24] The *modus operandi* applied by accused 1 in checking the claims submitted followed the same process as that used by the other employees of Aveshe who did the same task. On that score, the evidence does not warrant an adverse finding against

accused 1. However, things become more complicated for accused 1 to successfully seek a discharge in terms of s 174 of the CPA once the evidence regarding the search at her residence and the documents found in her possession is taken into account.

[25] This includes the following: The document found in possession of accused 1, 'Exhibit YYYY18' was used by accused 3 to claim value added tax ('Exhibit DD5'). A further document found in possession of accused 1 ('Exhibit YYYY4') was used by accused 5 to claim value added tax ('Exhibit GGGG'). Two further invoices found, being 'Exhibit YYYYY9' and 'Exhibit YYYYY10' were used by accused 5 to claim value-added tax (see 'Exhibits MMMM2' and 'MMMM3').

[26] Furthermore, 'Exhibit YYYYY5' which was also found in possession of accused 1 was used by accused 5 to claim value-added tax ('Exhibit QQQQ6'). The invoices of different vendors or suppliers were found in possession of accused 1, namely those of Pupkewitz Catering (Pty) Ltd, Mega Pupkewitz & Sons (Pty) Ltd, Waltons (Pty) Ltd, Greg's Motor Spares (Pty) Ltd and Powerflow Exhaust & Tyre (Pty) Ltd, which are similar in layout, design and appearance, to a total of 118 invoices used by accused's 2, 3, 4, 5, 8, 9, 10, 12 and so forth.

[27] A further 17 invoices bearing Pupkewitz Catering (Pty) Ltd logos were used by three accused persons, *inter alia* accused 5 and 13, and are similar to the three invoices bearing the same Mega Pupkewitz & Sons (Pty) Ltd logo that was found in possession of accused 1. Twenty-three (23) invoices bearing the logo of Mega Pupkewitz & Sons (Pty) Ltd were used to claim value-added tax by four persons; accused's 5, 8 and 13 amongst others, and they are similar to four invoices found in possession of accused 1.

[28] Similar invoices belonging purportedly to Waltons (Pty) Ltd, Greg's Motor Spares (Pty) Ltd and Powerflow Exhaust & Tyre (Pty) Ltd were also found in her possession, which in this case, of which similar invoices were submitted by some of the accused to make claims to recover value-added tax. There is no reason on the evidence for accused 1 to have been lawfully in possession of any of those documents. The fact that they were found in her possession may cause a reasonable Court to infer that accused

1 was involved or instrumental in the false claims submitted by accused 2, 3, 4, 5, 7, 8, 9, 10, 11 and 12.

[29] It follows that in so far as accused 1 is charged together with the latter accused; the application for a discharge on that issue should be refused. I will however grant the discharge of accused 1 on count 623, which relates to a Volkswagen GTI which was allegedly purchased from the witness, Ms Dillish Peyavali Helena Mathews.

#### The case against accused no. 6

[30] I turn to consider the case against accused 6. Accused 6 is charged on one count of contravening s 4(A)(1) of POCA, alternatively contravention of s 4(B)(1) of POCA. The charge turns on an amount of approximately one million five hundred thousand Dollars (N\$1 500 000) which accused 5 deposited into the bank account of accused 6. The money was deposited into her account in pursuance of an otherwise legal transaction when accused 5 purchased a residential property in Windhoek. The deed of sale reflects, initially it seems that accused 6 was the purchaser. At some stage however, her name was deleted and replaced with that of accused 5. There is no evidence to indicate the reason for that. Accused 6 paid the amount deposited into her bank account by accused 5 to the conveyancers who attended to the transfer of the property to accused 5. It is further common cause that accused's 5 and 6 are related.

[31] The crisp question is whether it can be said that accused 6, at the time the money was deposited into her bank account, knew or reasonably ought to have known that the money was the proceeds of crime. The evidence tendered by the State neither establishes that fact nor negates it, even on a *prima facie* basis. During the course of the State's case, the State handed in affidavits deposed to by accused's 5 and 6 respectively, which were part of the bail applications. I am alive to the fact that the affidavits contain uncontested evidence and evidence which is not subjected to cross-examination. However, it appears to me that the State has no better evidence to present. As I indicated in deciding the issue as far as accused 6 is concerned, I am ultimately to exercise a discretion whether to place accused 6 on her defence or not. In

exercising that discretion, I find in favour of accused 6, and she is discharged in respect of these counts.

The case against accused no. 14

[32] I turn finally to deal with the case against accused 14. Accused 14 is indicted on the following charges, counts 135 to 186 in respect of which he is charged jointly with accused 1 and accused 5. In a further charge contained in count 628 he is charged with accused 1 and a further charge (count 629) in which he is charged jointly with accused 1.

[33] As far as count 629 is concerned this relates to the alleged purchase of the Volkswagen GTI from a certain Ms Dillish Peyavali Helena Mathews to whose evidence I have referred. The evidence is to the effect that the vehicle was purchased by a certain Mr Nuuyoma who paid the purchase price. Although accused 14 was present at the time, there is in my view, insufficient evidence that he in fact purchased the vehicle. There is further no evidence as to the identity of Mr Nuuyoma or whether he bears any relationship to accused's 1 or 14. Nor is there any evidence as to what happened to the vehicle and in whose possession it was once it was purchased and delivered to the purchaser. For the remainder of the charges, these all flow from the activities of accused 5 and as a consequence whereof various cash deposits found their way into the bank account of accused 14, having been deposited by accused 5.

[34] It was argued by the State that based on the evidence of Mr Karl Patrick Cloete, accused 5 had told him that he had deposited the amounts for the benefit of accused 1. I bear in mind that this is an extra-curial admission which may implicate accused 5 but in itself does not implicate accused 14. It remains a fact however that on various occasions accused 5 had deposited sums of money into the bank account of accused 14. There does not appear, on the evidence, to be any direct relationship between accused's 5 and 14, and the evidence does not establish any apparent reason why accused 5 would in the first place be in possession of the bank details of accused 14

nor does the evidence establish any reason why accused 5 would deposit large amounts of money into the account of accused 14 on different dates and occasions.

[35] Mr Brockerhoff who represents accused 14 submitted that accused 14, once the money had been deposited into his account in a manner ring-fenced the money so deposited, he did not use any of the proceeds. If that is the case, it is for accused 14 to give evidence to that effect. I cannot in the circumstances place any reliance on what was suggested during the course of cross-examination since it does not constitute evidence. It follows that as far as accused 14 is concerned, that he is discharged on count 629 but for the remainder of the charges he faces, the application is dismissed.

### Conclusion

[36] I indicate in conclusion that it is apparent from the reading of the indictment that to some extent some of the charges appear to have been duplicated in the sense that the same facts give rise to different charges being charged, not in the alternative but rather as separate charges. I am of the view that, it is not appropriate to deal with that aspect at this stage. It would be more proper to deal with that aspect at the conclusion of the trial once I have the benefit of all the evidence placed before me. Accused 6 is discharged from prosecution and he is at liberty to go. As far as the remainder of the accused persons are concerned, they are discharged on those counts which I have mentioned but for the remainder of the charges they face, the applications for discharge are refused.

[37] In the result, I make the following order:

1. Accused 6 is discharged on count 286 and from prosecution in this case in terms of s 174 of the Criminal Procedure Act 51 of 1977.
2. Accused 1 and 4 are discharged on count 286, but for the remainder of the charges of the application to be discharged in terms s 174 of the Criminal procedure Act 51 of 197 is dismissed.

3. Accused 5 is discharged on count 625 and count 626, but for the remainder of the charges the application to be discharged in terms s 174 of the Criminal procedure Act 51 of 197 is dismissed.
4. Accused 14 is discharged on count 629 but for the remainder of the charges, the application to be discharged in terms s 174 of the Criminal procedure Act 51 of 197 is dismissed.
5. Application for accused 2, 3, 7, 8, 9, 11 and 12 to be discharged in terms s 174 of the Criminal procedure Act 51 of 1977 is dismissed.
6. The matter is postponed to **24 August 2020**, at **09h00** for continuation of trial.

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K Miller  
Acting Judge

APPEARANCES:

1<sup>ST</sup> ACCUSED

W T CHRISTIANS

Of WT Christians Legal Practitioners, Rehoboth

2<sup>ND</sup>, 3<sup>RD</sup> and 7<sup>TH</sup> ACCUSED

M N KATUVESIRAVENA

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5<sup>TH</sup> ACCUSED

K KAMWI

Of K Kamwi Law Chambers, Windhoek

6<sup>TH</sup> ACCUSED

T M CAROLUS

Of Neves Legal Practitioners, Windhoek

8<sup>TH</sup>, 9<sup>TH</sup>, 12<sup>TH</sup> and 14<sup>TH</sup>

ACCUSED

T P BROCKERHOFF

Of Brockerhoff & Associates, Windhoek

11<sup>TH</sup> and 13<sup>TH</sup> ACCUSED M TJITEERE

Of Dr Weder, Kauta & Hoveka Inc., Swakopmund

RESPONDENT:

M H MUHONGO

Of Office of the Prosecutor-General, Windhoek