IN THE REGIONAL COURT FOR THE REGIONAL DIVISION OF GAUTENG, HELD AT RANDBURG

CASE NO: RC376/2016

DATE: 2018/01/19

THE STATE

versus

PAUL O' SULLIVAN and ANOTHER Accused

RECORD OF PROCEEDINGS

BEFORE:	MS SETHUSHA
ON BEHALF OF THE STATE:	MR MOLOTSHWA
ON BEHALF OF THE DEFENCE:	MR VERMEULEN
INTERPRETER:	MR MOTAUNG
CHARGE:	(SEE CHARGE SHEET)
PLEA:	(SEE CHARGE SHEET)

VOL 1 (Page 1 - 25)

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STATE *v* PAUL O' SULIVAN and ANOTHER

CASE NUMBER:	RC376/2016
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REPORT ON RECORDING
I am unsure who the attorney is, Vermeulen or Taljaard as pp indicated Taljaard and court talked with Vermeulen

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PROCEEDINGS ON 19 JANUARY 2018 [12:03]

COURT: A moment Ms [indistinct].

PROSECUTOR: As the court pleases. Your Worship may I call the matter of the state v Paul O' Sullivan and Another. The case number is 376/2016. The date Your Worship is 19 January 2018. The appearances are as follows. The presiding officer is Ms Sethusha, public prosecutor J J Molotshwa.

COURT: May I have the accused standing when you place the matter on record?

PROSECUTOR: As the court pleases, thank you Your Worship. The interpreter is Ms Mutaung and for the defence is Mr Taljaard. Your Worship the matter was postponed for judgment.

COURT: Thank you.

PROSECUTOR: As the court pleases.

COURT: Thank you. I have been provided with the written heads in the matter. Before I commence with my judgement I need to hear from both parties whether you have anything to add based upon your written heads. Let me hear from the state side, Mr Molotshwa?

PROSECUTOR: As the court pleases Your Worship, I have got nothing to add.

COURT: Thank you, defence on behalf of advocate Vermeulen?

MR VERMEULEN: As the court pleases Your Worship. We have nothing to add from our side.

COURT: Thank you.

MR VERMEULEN: I confirm Your Worship.

COURT: Thank you. You may be seated accused persons and listen carefully. I am going to be a bit long. If I am not audible, if you are not hearing me, just indicate it.

JUDGMENT

In the absence for further address by the state and the defence, I will now proceed deliver judgment. This judgment arise from a plea of not guilty on the following charges, extortion, intimidation and kidnapping. Accused 1 is Mr Paul Robert O' Sullivan, accused 2 is Ms Melissa Naidoo. The accused persons were represented by advocate Pansegrouw until the state case, thereafter advocate Vermeulen took over the matter to finality. Both councils were briefed by the same firm. For the state is advocate Molotshwa. The state levelled the following charges against the accused persons.

Extortion, that is count 1. The state alleges that on or about 13 October 2014 at Rosebank in the regional division of Gauteng, the accused did unlawfully and intentionally induce or subject pressure or inspire fear in the mind of Ms Cornelia Sophia Van der Merwe by alleging that she had committed the offence of theft by stealing from her employer Ronald Bobroff and Partners. And that if she does not confess to theft, they will have her criminally charged and convicted of theft. And did then and by means of the said threat inducement or pressure unlawfully and intentionally obtained or attempt to obtain an advantage due to them to with to be paid money by Bobroff and Partners, thereby making themselves guilty of extortion.

Count 2 is that of statutory intimidation. The accused are guilty of contravening of section 1(a) read with section 2 and 3 of the Intimidation Act 72 of 1982. In that on or about the same date and place mentioned in count 1 in aforementioned, in count 1 in the same

aforementioned division, the accused did unlawfully with the intend to compel or induce any person, namely Ms Cornelia Van der Merwe to do abstain from doing any act or to abstain from doing any act or to assume or abandon any standpoint to which to confess to having committed theft, threatening to have her criminally charged for theft.

And lastly it is count 3, that of kidnapping. In that on or about the same date, place mentioned in count 1 under the same division, the accused persons intentionally deprived Ms Cornelia Sophia Van der Merwe of her freedom of movement by forcing her to accompany them to their offices against her will.

The accused, that is the last count. The accused persons pleaded not guilty to all the charges. They denied the allegations raised against them. They tendered plea-explanation as per EXHIBIT A and B. It is already on record in terms of section 115 of the Criminal Procedure Act. Before evidence was led certain documents were read on record by the state with the consent of the defence admitting to the correctness of the contents thereof.

Those documents relates to exhibit, were marked EXHIBIT C to D which relates to e-mail exchange between Ms Van der Merwe and the accused draft affidavits as well as the transcripts arising from mechanically recorded proceedings from the interviews had. EXHIBIT E and F related to affidavits made by accused 1 and 2 attached as their warning statement to the police. The state in proving its case called 4 witnesses namely Captain Mokobi, Ms Corlia van der Merwe, I will refer to her as the complainant in the proceedings. Advocate Schalk Willem

Wentzel Jacobus van der Sandt as well as Mr Anton Millar. The accused persons also testified in their defence and they called no witnesses. Briefly what was submitted before this court by the state is as follows. Captain Mokobi the investigating officer in this matter stated that he is the one who opened the case on 7 may 2016 of the incident that took place on 13 October 2014. The complainant briefly stated that on the date of the incident she was on duty as a legal cost consultant at the Bobroff offices, when approached by a colleague to come to the boardroom to discuss a client matter.

To her surprise she finds the accused is seated in the boardroom, they introduced themselves to her by their names and indicated the purpose of wanting to interview her. They stated that they have been instructed by the Bobroff to investigate the linkage of office information to the outsiders by the staff under their employee. As such, accused 1 told her to cooperate failing which she will go to jail. During the interview the accused showed her e-mails she had send to the journalists. The e-mails depicted the feud between the Bobroff firm and other legal firm.

They also includes attachment of files relating to the Bobroff's clients, their costing and consultation letters as well as information relating to the Bobroff trust account. It is further the testimony of the complainant that accused 1 told her that her actions in doing so amounts to violation of intellectual proprietary as such by divulging private information. Her conduct amounts to theft of information is punishable. She can face prosecution. Accused 1 offered her

indemnity from criminal proceedings or prosecution rather on condition that she makes an affidavit retracting what she disclosed to the journalist, namely Mr Beamish, the Law Society Hawks and the Road Accident Fund. I will refer to it in my judgment as RAF. It is further the complainant's testimony that during the employment at the Bobroff she in fact witness a lot of fraudulent activities relating to mishandling of funds from RAF, medical negligence, dog bites matters which were dealt in the office of the Bobroffs.

Hence in order to protect herself, being a costing officer, she shared the information with Mr Beamish the journalist who advice her to consult with advocate Van der Sandt. Advocate van der Sandt advised her to make a protective disclosure affidavit and that she should circulate it to the aforementioned bodies. The complainant further testified that during the interview by the accused whilst at the Bobroff's boardroom she at first denied any knowledge of the e-mails shown to her by the accused, specifically accused 1. She later admitted to have send out those e-mails.

It is the complainant's testimony that she did not believe that accused would carry out his threats in saying that he will open a criminal case against her and that he will make her sleep in jail. She was only scared over her children's safety. Further she testified that accused 2 kept on saying to her she must thing about her children and reminded her to cooperate throughout the interview. She then commits to cooperate in telling everything and disclosing how she ended up making a protective disclosure. As such, accused 1 indicated that she must

come along with them to their offices to make a statement withdrawing all that she stated in the protective disclosure. From the boardroom accused 2 accompanied her to her office to take her bag and her cell phone. She was told by accused to walk pass the reception and at normally when proceeding to the parking lot heading to the accused offices in order to make a statement on the admissions she made during the interview. She walked pass the offices of the very same colleagues who called her to the boardroom and said to her, I quote:

"Vir jou, ek gaan vir jou moer."

She was escorted by accused 2 to the office to make a call where she falsely indicated to accused 1 that she needs to call a friend, instead she called for advocate Van der Sandt. They however could not hear each other and advocate Van der Sandt promised to call her back. Along the way to the accused offices, accused 1 was the driver, accused 2 was at the back with her. She testified that she felt she was under arrest and scared. She pinched her hand on the cell phone which was inside her handbag and type, I quote:

"Help me."

Mr Anton Muller being the first person listed under A in turn got the message and responded by saying, I quote:

"Advocate Van der Sandt is working on it."

They walked into the accused offices. The complainant's phone rang. It was advocate Van der Sandt who told her to hand over the phone to accused 1. Accused 1 and advocate Van der Sandt started screaming at each other and accused 1 dropped the phone. He told the

complainant if she is going to involve third parties in making a statement indemnity will fall off. Can you hear me so far accused 1?

ACCUSED 1: Yes Your Worship.

COURT: Thank you. Advocate Van der Sandt called again, they screamed at each other again. Accused 1 told accused 2 to take the complainant back to her offices. Accused 1 informed the complainant that he will prepare a draft for her to sign it at the Bobroff offices accused 2 handed an affidavit to the complainant's senior to pass it to her to sign the complainant. She refused to sign, as such she was dismissed with immediate effect.

After the incident it is the complainant's testimony that she reported the matter to colonel Moue from the commercial crime. The matter was not taken to the courts until in 2015 when she followed up the case she was told to open the case with the Sandton SAPS. As such on 16 March 2016 she made a statement to the police. Lastly the complainant testified that she admitted to withdraw all the charges including protective disclosure she made earlier so as to be paid her salary as part of settlement towards her dismissal.

And that was arising from the advice from advocate Van der Sandt. She however later decided to proceed with the case after the Bobroff fled the country. She felt that she cannot sell her dignity for cash. Under cross-examination she denied that she made two statements concerning the matter when reporting the case as stated by captain Mokobi. She stated that she only made one statement. It further came under cross-examination that it is advocate Van der Sandt

who advised her that she was in fact kidnapped, hence the charge kidnapping levelled against the accused persons, amongst others. The complainant was lengthy examined based on the transcribed record arising from the interviews held on 13 October 2014 from both offices, depicting her reaction to show presence of consent from her part throughout the entire process as well as absence of threats from both accused in conducting the interviews.

Another witness that was called by the state it was Mr Anton Millar, a lawyer and a director of a firm Norman Burger and Partners. He testified that he knew the complainant through the inspection on a file that was investigated based on the litigation laid against the firm Borbroff where she worked. On 13 October 2014 he communicated with the complainant through sms's after she cried, I quote:

"Help."

Upon enquiring she indicated that accused 1 made her to dispose against protective disclosure she made. He confirmed that he advised her to contact advocate Van der Sandt being a criminal lawyer. He also advised her to contact a labour lawyer concerning her dismissal from the Bobroff firm. From Mr Millar's testimony the complainant never stated that she has been taken against her will she only said she is on the way. The fourth and last witness called by the state, it was advocate Schalk Willem Wentzel Jacobus van der Sandt. He testified that on 13 October 2014 the complainant called him. He is however unsure if the witness used the term 'kidnapping' or she only stated that she was taken from her place of work by accused 1 to an unknown place.

Advocate Van der Sandt further testified that as a result he communicated with accused 1 through the complaint's phone and told accused 1 to take the complainant back to her work place as his actions amounts to kidnapping. Advocate van der Sandt concedes that there was screaming at one another and that was between himself and accused 1 during telephonic conversation. He testified that he is the one who represented the complainant in the disciplinary hearing at the Borbroff.

He confirmed that he advised that the complainant has to design the dismissal settlement agreement with its terms only to get her salary due to her from the Bobroff. By then the complainant had not yet laid the charges against the Bobroff. That concludes briefly the evidence presented before me by the state. From the accused sides briefly, they both denied the allegations levelled against them. Accused 1 testified that he is a forensic consultant and a certified fraud examiner. Amongst his other duties he investigates frauds and corruption privately. Accused 2 in her testimony she stated that she is a forensic investigator. At the time she worked with accused 1 in his firm.

Currently she is employed at Deloitte and Tush a company as a forensic manager. She only attended the interviews in the company of accused 1 on the day of the incident as a company's practice. She however set and witness the entire interviews. She admits having accompanied the complainant to her office before they could leave with her to their offices. Both accused indicated that they got the mandate to investigate the complainant from the Bobroff Company based upon the

theft of information in the company, as well as e-mails from Mr Bemis. They had entered into an agreement with the Bobroff on hourly rate payment. They also received a deposit before commencing the service to the Bobroff company. As part of the agreement they were entitled to their fees irrespective of the outcome of their services on the mandate given.

In their investigations they found that the complainant has e-mailed documents containing privileged information and or of propriety nature to the outsiders, which information includes an application by Bobroff offices launched against Millar Attorneys relating to Touting Acts. Confidential documents of clients that Bobroff Attorneys assisted and many other privileged information that were send out by the complainant to the outsiders. Those documents were send to Normal Burger Attorneys through Mr Beamish the journalist who was e-mailed by the complainant. It is further the accused testimony that the complainant did not get the Bobroff's consent to do so, as such according to accused 1 the complainant acted unlawfully by stealing office information.

She also undermined the company that hired her. She was in breach of service. It is further the accused's testimony that the complainant was not aware of the recording that took place during the interviews. However throughout the interviews the complainant had the opportunity to make use of her phone and call any person she wanted to. Accused 2 only escorted her to monitor that she must not call only one person being Mr Beamish as the purpose of obtaining a statement was aimed at having Mr Beamish arrested. Complainant admitted to all

the documents shown to her during the interview. She also admitted that she was wrong, according to the testimony of the accused, accused 1 specifically. As such, she consented to go with them to their offices to make a written statement relating to her admission. Accused 1 testified that the taking of the statement was interrupted by the intervention of a third person, being advocate Van der Sandt who phoned the complainant when he was about to take the statement from her.

The accused further testified that they were not required to warn the complainant in accordance with the judge's rule before obtaining her statement as they are not police. It is further accused 2's testimony under cross-examination that, point of correction. It is further accused 1's testimony under cross-examination that had the complainant not agreed to make a confession or statement, he would not have taken her with to their offices. The reason why the statement was not taken at the Bobroff's offices boardroom was that accused 1 needed to attend to other matter urgently, including the taking of his medication.

The accused persons denied having injured the complainant in any other manner as stipulated by section 1(1)(a) of the Intimidation Act. Accused 1 denies having screamed at the complainant during the interview. He went on to testify that the prosecution in this matter, he is of the view that the prosecution were mala fide in having him prosecuted as he has investigated prominent people. Under cross-examination accused 1 indicated that the reason why they did not lay a charge against the complainant upon her admission is that they wanted

to get concrete evidence from her so as to pursue Mr Beamish for being in possession of stolen material. Lastly, it is the accused testimony that the complainant gave a tacit consent to go with them to make a statement. That concludes the evidence presented by the accused persons. The defence and the state submitted written heads in detailed with supporting cases supporting their submissions.

The state applied for conviction as charged and the defence advocate Vermeulen applied for acquittal in all the counts. the court is expected to rule on the totality of the evidence presented, bearing in mind that it is the duty of the state to prove the guilt of the accused persons beyond reasonable doubt. Accused bears no onus to prove their innocence. If their version is reasonably possibly true, they are entitled to an acquittal. Let me pause and state the following. During the proceedings it only came to my knowledge at the defence case that, and that was at cross-examination that in fact accused 1 has opened a case against the prosecutor handling this case and that was long before the commencement of this proceedings.

The said matter is since in the hands of the MDPP Mr Shaun Abrams awaiting for his decision. Secondly, the case takes too long to be investigated and to be placed on the court's roll. I am stating this in that the incident occurred on 14 October 2014. The complainant's statement was only obtained towards the end of, towards the end to the beginning of 2016. Accused persons were only summoned to court on 19 August 2016 for the incident that took place in October 2014. Thirdly, it is in my view that this case is badly investigated on the following basis. I find it

surprising that there is no eyewitness from the colleagues of the complainant including the lady who called her to the boardroom and or the receptionist from the Borbroff's office as I do not hesitate that they should have observed. They were going to assist this court to state the position in which the complainant was when leaving the Borbroff's offices in the company of the accused persons.

And lastly on a positive note, I acknowledge all cases referred to by the state and the defence in their written heads in support of their submissions. Back to the judgment. Most of the facts presented are undisputed from the evidence tendered. The only issue that the court is invited to decide on is to determine whether the accused acted in the manner that qualifies them guilty of extortion, statutory intimidation and kidnapping. I do not hesitate to state that the state in proving its case is relying mainly on the evidence of the complainant. The law in terms of section 209 of the Criminal Procedure Act permits the court to convict an accused person on the evidence of a single competent witness provided the evidence is consistent and reliable in all material aspects.

The act refers and I [indistinct] my own emphasis, it refers to all and not piecemeal consistency and reliability. My understanding is that the evidence of a single witness, being the complainant in the matter should not leave a shadow of doubt for it to be upheld by the court. Dealing with count 1 extortion, I refer to the 4th edition book of *CR Snyman* at page 386 to 389 where he defines extortion in the light of the case of *state v Mollendorff and Another* 1989 (4) SA 1028 (AD) as well as section 1 (1) of the General Law Amendment Act 139 of 1992

which extends the meaning of [indistinct] advantage. I however need to quote the following from *Snyman criminal law book*. He states the following:

> "The crime is not complete until the advantage has been handed over to or acquired by X. If she is apprehended after the threat or intimidation but before the accusation of the advantage, she is guilty of attempted extortion only."

Then he went on, further Snyman stated that:

> "There must be a causal link between the threats or intimidation and X accusation of the advantage."

The threat or intimidation must have been exercised unlawfully. He gave the following example:

> "If X discovers that employee Y has stolen money from her firm and threatens to lay a charge of theft with the police, unless Y returns the money, the pressure is not exercised unlawfully."

He went on and further stated that:

> "X must intend to gain some advantage as a result of threat and she must know that the threat is illegal. X must know that she is not entitled to the advantage."

And he made reference to *Mitirara* 1962 (2) SA 266 (E) 267(e)-(f) case. Count 2 statutory intimidation briefly from my observation the charge sheet does not disclose the penalty clause. I will comment on that point

as I progress with my judgment. Count 3 kidnapping with reference to the law I came across, I still make reference to *Snyman* at page 465 in his book where he stated the following and quotes:

> "Unlawful deprivation of movement may be justified by consent of the person removed."

He went on and stated further that:

> "X must be aware that Y has not consented to the removal."

It is tried law that the state in criminal case bears the onus of proving the guilt of the accused beyond reasonable doubt. In so doing, he must ensure that he puts the charges that disclose all the elements of the offence so as to enable the accused to answer properly to the accusation levelled against him or her or them. In evaluating evidence presented before me, the court is expected to consider evidence in totality.

Ms Van der Merwe the complainant, she gave a single evidence on material parts of evidence, as such her evidence has to be approached with caution. Her testimony under evidence in chief as well as under cross-examination in which she was subjected over several days by advocate Pansegrouw, I do not hesitate to state that it was not persuasive. She is found to have been in consistent and evasive in answering questions from the defence. For instance, she testified that she at first denied to have sent out e-mails during the interview at the Bobroff's offices. And it is further from her testimony that she later admitted to have send those privileged e-mails out. She however in

court did not play open cards to this court and gave reason of her actions during the interview by denying it first then later admitting. It is her testimony that she sent out those e-mails without the knowledge of the Borbroff or the office in which she worked in order to protect herself against the wrongdoings by the office considering her status as being the office, costing officer. What worries this court about her actions is that a journalist is not a relevant authority to deal with protective disclosure.

I therefore found that her actions in sending office information without the consent or knowledge of the office tantamount to malicious actions and it is unlawful. Further the complainant is found to have contradicted herself in most material aspects. To an extent that it raises a concern about the reliability and honesty of her story. For instance, she stated in court that she was not threatened by the accused utter, accused 1 rather, utterances that he will her jailed, which to me it exonerates an element of threat and intimidation as an required element in all the counts levelled against the accused.

She however as she progresses with her cross-examination changed her story as stated under evidence in chief about the threat and stated that in fact she was scared. Complainant is further found to have exadurate the occurrence. As such from her testimony alone it was difficult to have a clear picture of the occurrence until when the video relating to the interview was properly proven and shown in court. Upon viewing the video, irrespective of the sound being unclear, from the pictures we manage to observe that she has exadurate the

occurrence. For instance she mentioned that she felt like she was under arrest, yet the video depicted her movements in and out the office of the accused attending to phone calls away from the accused, unescorted. Also at the Bobroffs from the boardroom where she was being interviewed, she went to her office and make a call much as she left the boardroom in the company of accused 2. Accused 2 remained by her office door, she did not get inside her office. And accused 2 did explain why she went with her to the office.

The reason was to ensure that she does not communicate with one person, namely Mr Beamish the person he targeted to have charged pressed. From the observation further based on the video that was shown in court, when the accused at their offices offering something to drink to the complainant she went for a glass of wine. In my mind, those are not actions of someone who is under pressure, arrest or threatened environment as the accused, or rather my apology, as the complainant wants the court to believe.

To me I found it to be a relaxed environment. It further came from the complainant's testimony that she cried during the interview. Throughout the video that we observed that was not depicted. I must comment that when she testified in court, I observed that she was very emotional about the incident that occurred in 2014. Yet surprisingly the video does not depict her crying considering that at the time the incident was fresher than when testifying in court. This court to arrive at a decision was only assisted by the video depicting the surrounding of the interview and the happenings. During the interview at the Borbroffs

offices, she never verbalised her unwillingness to leave her workplace to go away with the accused. In my view, she had plenty opportunity to show her unwillingness or resistance by doing one of the following, alerting colleagues, even security or any other member of the public who was in the building or close by. By refusing to leave her office after she managed to leave the boardroom under the [indistinct] to call a friend or even calling the police in her office.

She also had the opportunity to call the police along the way as she had her phone if indeed she was not a willing party to accompany the accused persons to their offices. The only inference that I can arrive at from her reactions of not doing the possibilities I have mentioned is that she consented to go with the accused to make a statement, so as to safe herself from the wrongdoings and or being criminally charged. As indicated her testimony is not supported by any other evidence from the colleagues who could amongst others testify and support her reaction to show unwillingness to accompany the accused persons.

There was a lady who called her to the boardroom, whom the complainant testified that she confronted her further and accused her of setting her up. The investigating officer did not take her statement. In as far as the testimony of advocate Van der Sandt is concerned, it is advocate Van der Sandt testimony that the complainant never mentioned that she is being kidnapped or taken away from her workplace unwillingly. The complainant from her testimony, she was a candidate attorney. I am very certain if a situation calls for kidnapping

she should be in an enlightened position to state that. The evidence of the complainant does not merge the definition of section 1(1)(a) of the Intimidation Act as the section provides the following.

> "A. Any person who without lawful reason and with intend to compel, or induce any person or persons of a particular nature, class of kind or persons in general to do or abstain from doing any act or assume, or to abandon a particular standpoint
>
> (i) Assault, injures or causes damage to any person or
>
> (ii) In any manner threatens to kill, injure or cause damage to any person or persons of a particular class, nature or kind."

It went on and subsection (b) thereof says:

> "Shall be guilty of an offence and liable on conviction to a fine not exceeding R40 000 or imprisonment for a period not exceeding 10 years or both such fine and imprisonment."

On the face of the charge sheet relating to count 2, the charge sheet does not make provision of section 1(1)(b) which deals with the penalty thereof. Irrespective of dealing with the class of people and nature or threats defined in this act, I found that it is important to state that it is [indistinct] for the charge sheet especially dealing with statutory offences to disclose the penalty and or state the section that stipulates the offence and punishment. For the accused person to plead to the

offence, knowing and understanding the seriousness of the offence and the sentence he may receive should he be convicted. In the present charge sheet count 2 it does not disclose the penalty. Dealing with extortion, one of the element is that there must be a causal link between intimidation, threat and accusation of advantage. I found the link to be lacking on the following in that, the last paragraph on count 1 of the charge sheet reads, I quote:

> "And did then by means of the said threat inducement or pressure, unlawfully and intentionally obtain or attempt to obtain advantage not due to them to with ..."

My emphasis

> "...To be paid an amount of money by Bobroff and Partners, thereby making themselves guilty of extortion."

I am very certain the state and the defence will agree with me that no officer from Bobroff who testified that there was pressure exerted to them by the accused persons to be paid X amount. From the evidence presented, there seems to be no pressure of any sort exerted to the Bobroff and Partners to gain unlawful advantage from the accused based on their actions to the complainant. Throughout the accused testimony they stated that they had an agreement of service with Mr Bobroff the senior partner to investigate linkage of information in their offices. They agreed at a fee prior rendering service. A deposit was

freely advanced to the accused persons by the Bobroff prior the commencement of the duty of service. It is the accused further testimony that after a deposit was paid they rated per hour, irrespective of their success or not in their investigations. Therefore there is lack of advantage they stand to get from the Bobroff in their services. The accused even though they did not call any witness to corroborate their version, they testified well under the evidence in chief as well as under cross-examination.

They were not shaken by cross-examination coming from the prosecution, advocate Molotshwa. Their credentials as forensic consultants with rights to conduct private investigations mainly on corruption and fraud is found to be unchallenged by the state. I found no reason to arrive at a conclusion that they acted unlawfully and wanting to obtain a statement from the complainant. I must state that extortion and intimidation they overlap. In my view, by putting extortion as count 1, count 2, intimidation it amounts to unfair splitting of charges.

I do not intend to deal with *mala fide* stands raised by accused 1 against the prosecution in pressing these charges against him as well as accused 2 as I found it to be irrelevant for these proceedings. In considering the evidence in totality, I arrive at the following decisions. Stand up accused persons? I found that the state has dismally failed to prove the guilt of the accused persons beyond reasonable doubt in all the counts. I arrived at the following conclusion. The accused are found not guilty and discharged in all the counts. Thank you.

- - - - - - - - - - - - - - - - -

MR VERMEULEN: Thank you.

PROSECUTOR: As the court pleases.

COURT: Thank you Mr Molotshwa.

MR VERMEULEN: As the court pleases Your Worship.

COURT ADJOURNS

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