

The allegation in paragraph 69 of the indictment that at discussion meetings of the area 7 committee of the VCA it was decided that the Freedom Charter was the basis for freedom and that it could only be attained by revolution, while Esau and Dorcas Raditsela explained that the time for revolution had come, was not borne out by the evidence for the state.

The evidence of the witness ic.8 that Esau Raditsela told him at an interim committee meeting in January 1984 that the people should be politicised in order to be mobilised as "hell is going to break loose in South Africa" stands unconfirmed, is rather oblique, was not heard by McCamel and was disputed by accused No 10. No finding can be based thereon.

The allegation in paragraph 70 of the indictment that accused No 7 and accused No 17 attended a training course at Daleside in April 1984 in skill and method to incite the masses to riots to make the Republic of South Africa ungovernable was not substantiated by any witness. The state case is that it is to be inferred from exh U.4. That exhibit standing on its own does not lead to that conclusion to the exclusion of all other interpretations. We refer to it elsewhere.

The indictment alleges in paragraph 74 that the VCA area 7 committee and ERPA applied intimidation at the 80th celebra-

tions of Evaton. There is no evidence to support this statement.

Although paragraph 75(1) to (5) contains detailed allegations of the involvement of COSAS with the VCA, evidence about this was conspicuous by its absence. The allegation in paragraph 75(6) of the indictment that at a meeting consisting of members of COSAS, VCA, AZANYU, FEDSAW and Vaal Youth Congress chaired by Esau Raditsela on 25 August 1984 accused No 5 called for the destruction of councillors and Black local government and accused No 1 made the same call adding that there is no liberation struggle without casualties, was not supported by any evidence. The state did not call any witness on the meeting of 25 August 1984.

The state witnesses who testify about incitement to violence at a VCA meeting on 26 August 1984 are Mrs Rina Mokoena, Reverend Mahlatsi and Masenya. This public meeting was held in the afternoon at the Roman Catholic Church, Small Farms.

What is curious is that the indictment does not allege the incitement to violence about which the witnesses testified. It is alleged that accused No 4 incited the audience to destroy and stone everything belonging to the Black local authority and that Masenya had not been allowed to speak. The audience

shouted "Lets kill him, lets kill him". After he left the audience shouted "We don't want councillors with us, they are sell-outs, let's kill them. We must kill them". (Paragraph 76(10)). The indictment contains no reference in respect of this meeting to inciting speeches by Mrs Mokoena, Kabi, accused No 5, accused No 8 and accused No 17.

The evidence of the state witnesses was in light of this indictment somewhat surprising.

Masenya testified that the chairman of this meeting, accused No 8, stated that the councillors were untrustworthy and sell-outs and should be got rid of. This he later changed to "the councillors are supposed to be killed". The other two state witnesses do not mention this.

Masenya though referring to accused No 5's speech in his evidence in chief did not mention incitement to violence. Only in cross-examination did he testify that accused No 5 had said that councillors are sell-outs and government puppets, they are bound to be killed. He did testify in evidence in chief that accused No 5 had answered a questioner who had asked what would happen to those who paid the rent; that those persons who took a chance and paid the rent would land in trouble and be killed.

Rina Mokoena could not understand accused No 5's speech as he spoke in English.

Reverend Mahlatsi in his testimony did refer to accused No 5's speech but did not mention any incitement to violence.

Masenya stated in chief that accused No 17 confirmed accused No 8's speech that councillors had to be got rid of. In cross-examination he contradicted this saying only accused No 8 and accused No 5 had spoken of violence.

Rina Mokoena supported his evidence in chief.

Reverend Mahlatsi testified that accused No 17 had spoken in a very derogatory manner of councillors but he did not support the other two witnesses that accused No 17 had incited to violence.

Masenya testified that a woman (probably Mrs Mokoena) stated that councillors should be killed. He initially contradicted himself in cross-examination on this point. He is supported by Mrs Mokoena herself who in evidence in chief stated positively that she had said that councillors should resign and should be killed as they don't do their work. In cross-examination she became vague on this. The Reverend Mahlatsi supported this version.

Masenya testified that a woman (according to the defence Mrs Maria Dlamini) shouted that Masenya should sit down as he was a councillor and that he would be killed. According to Mrs Mokoena the audience said "Let him be killed". Reverend Mahlatsi gives similar evidence.

Masenya testified that as he left the hall someone on the platform said that properties of councillors should be burnt. He is not supported on this aspect by Mrs Mokoena. Reverend Mahlatsi's evidence is that Kabi, chairman of ERPA, accused the councillors of appropriating the peoples' money for their own purposes and that Kabi stated that should the people set fire to Dutch's shop he would be satisfied. Mr Dutch Diphoko was a councillor. He was murdered on 3 September 1984. To an extent Reverend Mahlatsi therefore bears Masenya out.

As has been set out there are six instances of incitement to violence reflected in the evidence of the state witnesses. Not one of these was mentioned in the indictment. Only in one case do all three witnesses give approximately the same version, namely Mrs Mokoena's speech.

To this has to be added the fact that we found Mrs Mokoena a poor witness and that both she and the Reverend Mahlatsi were accomplices. There is also criticism against Masenya's evidence. This is set out in the annexure.

Accused No 10, accused No 8, accused No 9, accused No 7, accused No 5, Ratibisi, Namane, Mrs Sisulu, Mgudlwa, Mrs Nyembe, Mrs Oliphant, Tsotso, Mazibukho, Vilakazi all gave evidence for the defence. They denied that there had been any incitement to violence. We have criticisms of their evidence, often serious. These are set out in annexure Z. However we cannot find it proved beyond a reasonable doubt that there was mention of violence at this meeting. The state evidence was too weak.

In passing we wish to refer to the public morning meeting of 26 August 1984 held by ERPA in the Roman Catholic Church Small Farms. It did not even receive mention in the indictment. Yet Mrs Mokoena testified that she herself in a speech there stated that the councillors must resign and be killed. She testified that accused No 17 called for the resignation of councillors and that if they do not resign they must be killed.

She stands alone. Her evidence is refuted by accused No 5, accused No 6 and Maine and it is rejected.

On 26 August 1984 a public meeting was held in the Los My Cherry Boipatong Anglican Church by the Boipatong Residents' Committee of which accused No 11 was the secretary. There is no evidence that any incitement to violence occurred.

An important piece of evidence for the state was Raditsela's call for violence before the march started on 3 September 1984. The witness ic.8 testified that he heard Esau Raditsela say inside the hall that they were going to kill Mahlatsi and brothers. Property belonging to councillors, the police and the Vaal Transport Corporation must be destroyed but not the property of ordinary people. The reference here was to Mr Mahlatsi the mayor of Lekoa.

The Reverend Mahlatsi who testified that he stood outside the door and could not hear all that was said, does not fully support the witness ic.8. He said that Esau Raditsela told the crowd that they would march to the houses of councillors to show them the placards that they must resign or go along to Houtkop and if they did not do that they should be killed and their

shops set alight. There is, however, again no reference to this allegation in the indictment, whereas Esau Raditsela does feature prominently in it in respect of the march.

There are a number of material contradictions between the witness ic.8 and the Reverend Mahlatsi in the above versions. We doubt that they can be explained on the basis that Reverend Mahlatsi did not hear well. There is furthermore a conflict between the two on the question whether Raditsela repeated this incitement outside the hall. To this should be added our general cautious approach to the evidence of these two accomplices.

The defence countered this evidence with five witnesses who were inside the hall. They were Dlamini, Mrs Nyembe, Mrs Oliphant and Lepele. Our opinion of them is set out in annexure Z. It can be summarised by saying that we were not impressed by them.

However that may be, we cannot find beyond reasonable doubt that there was incitement to violence inside or outside the hall on the morning of 3 September 1984 at the Roman Catholic Church, Small Farms before the march started.

The witness ic.8 testified that before the march started he saw placards being brought out. There were many. The wording of one was "Kill Mahlatsi and brothers".

This evidence was covered by the indictment.

The witness ic.8 is not supported in this respect by the state witness Reverend Mahlatsi. As the latter is illiterate this does not take the matter much further. The evidence of Brigadier Viljoen who saw a similar placard in Sharpeville early that morning namely "Kill Dlamini" cannot serve as corroboration.

The defence called a number of witnesses who contradict the witness ic.8. We cannot find it proved that there was a placard reading "Kill Mahlatsi and brothers" in the march.

We conclude therefore that it has not been proved that VCA speakers called for violence at meetings in Sebokeng Small Farms and Boipatong before the riots started. What is clear from all the evidence, however, is that at the meetings of the VCA councillors were attacked and vilified in strident language and accused of being spineless marionettes and traitors who were corrupt and in office merely for their own monetary gain. No effort was spared to move the people of Lekōa to contempt and even hatred for the council system and its incumbents.

It is convenient now to deal with the organisations active in Sharpeville and their activities.

DELMAS TREASON TRIAL 1985-1989

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