

12 August 2025

Director of Public Prosecutions

JOHANNESBURG

E-MAIL: [REDACTED]

Dear Adv du Toit,

REPRESENTATION: SUSPECT [REDACTED]

RAPE VICTIM: [REDACTED]

SANDTON CAS: [REDACTED]/08/2022

1. In this our first correspondence to you since the suspension of Adv Chauke, we would like to congratulate you on your appointment and convey our hope that we will maintain the same friendly and professional connection we had with Adv Chauke.
2. [REDACTED], a rape victim and complainant in this matter referred to *supra*, has legally briefed Adv Gerrie Nel and Adv Phyllis Vorster. We act on her behalf. We have consulted with her, and our brief is to ensure that justice is done and includes reporting to you the “dehumanising” (her words) treatment our client received from a prosecutor at the [REDACTED].
3. This is the second matter in so many weeks where the Criminal Justice System’s inability to deal with issues of Gender Based Violence (GBV), where the perpetrator has sex with a victim who is incapable of giving consent, despite the circumstantial evidence before and after the intercourse, is exposed.

June 2024

Address: 58 Union Avenue, Kloofsig, Centurion • **Tel.:** 086 10 200 30

Member Affairs – Email: ledesake@afriforum.co.za • **Directors:** Ms A. Bailey, Mr P.J.W. Buys, Dr H.K. Coetzee, Mr P.L. Dekker, Mr F.J.D. de Klerk, Mr G.R. de Vries, Dr D.J. Hermann, Mr W.G. Human, Mr C.M. Kriel and Dr R. Pretorius. • **Company Secretary:** Mr W.A. Vogel.

Registration number: 2005/042861/08 • **NGO number:** 054 - 590

4. The prosecutor at the [REDACTED] decided not to prosecute the matter on 13 September 2022. In a disturbing meeting with our client on 4 November 2022, he intimated that, according to him, the State cannot gainsay the suspect's version. We will deal with this in more detail *infra*, but he accepted the suspect's version despite her unequivocal denial of the truth thereof.
5. Troublingly, she only learnt of the decision not to prosecute via papers filed by the suspect in a related application for a protection order. The suspect was aware that the prosecutor refused to prosecute before the complainant was informed.
6. The decision not to prosecute was taken before the results of the rape kit and blood samples had become available and without the significant exchange of Telegram messages being filed in the case docket.

THE ESTABLISHED FACTS

7. In summary, the facts are that the suspect, a well-known and affluent businessperson, invited our client to his house.
8. She arrived at his house at about 20:30. The invitation and the fact that it was her first visit to his home are supported by Telegram messages.
9. He poured her a whiskey, and after her second whiskey, her first recollection thereafter was finding herself in the backseat of her car, naked and covered with a towel only, whilst a security guard of the suspect was seated in the driver's seat of her vehicle.

10. She drove herself home, knowing she was violated. She sent Telegram messages to the suspect attempting to establish what happened to her and reported the matter to the SAPS. During the evening, she was examined by a doctor, and on her insistence, a blood sample was taken.
11. Our client read in papers filed by the suspect in a Protection Order that the NPA decided not to prosecute the matter. She was only informed via SMS on 13 September 2022.

SUSPECT'S VERSION

12. In a consultation between our client and the prosecutor we have learnt that it is the suspect's version that he and the complainant had been dating since July 2021. Their relationship was of a sexual nature, according to the suspect.
 - 12.1 Our client denies this as a blatant untruth. It played a role in the prosecutor's evaluation of the merits, but he refused to accept or even consider the complainant's denial.
 - 12.2 The prosecutor rejected her version, arguing that she could not prove there was no relationship between them. She is adamant that a sexual relationship between them, never existed.
13. It is our client who contacted him, as she wanted to see him. He was already in bed at 19:30
 - 13.1 The messages and his furnishing of his address contradict this version.

14. She initiated sexual intercourse until she stopped and asked questions about the status of their relationship.

14.1 This rejects any doubt that there was sexual intercourse between them.

15. Without any previous altercation, the accused's conduct in calling the security guards and his reasons for doing so, as well as the video, are peculiar. Her conduct when the security guards arrived is not that of a woman kicking and screaming. The prosecutor accepted that she willingly allowed the security guards to carry her to her car naked. We argue that his version of her alleged conduct during the incident cannot be true.

16. The accused seems to aver that she was financially dependent on him and that he, *inter alia*, paid her rent. This is denied, and again, the prosecutor accepted the suspect's version.

17. Our client denies that the accused ever visited her at her house, as is his version. She has a full-time nanny, and this aspect of a long-term relationship could be tested instead of being accepted merely because the suspect says so.

WAY FORWARD

18. The prosecutor rejected the complainant's version and accepted that of the suspect.

19. If the version of the accused about the long-term sexual relationship is untrue, his whole version is to be rejected or at least to be tested during a trial.

20. The complainant was not only failed by the criminal justice system, but her treatment by the prosecutor and, to an extent, the investigators highlights the inability and/or unwillingness by the State to deal with the reality that women are drugged or abused when under the influence of an intoxicating substance, more so where the indications of spiking come to the fore.
21. We do not doubt that a thorough investigation and consideration of all the facts will lead to a prosecution. We implore your good office to take the necessary steps to have the matter properly investigated and reconsidered.

Yours sincerely,



GERRIE NEL

HEAD: PRIVATE PROSECUTOR

E-MAIL: onsvervolg@afriforum.co.za