



Credit: Carta de Moçambique

ASSASSINATION OF THE ACTIVIST ANÁSTACIO MATAVELE

Court ignores request to obtain extracts of the phone conversations between the accused

On 6 February, the Gaza Provincial Law Court concluded the adversarial investigation of the case of the murder, on 7 October 2019, of the social activist Anastácio Matavele.

After submitting the provisional charge sheet in November 2019, the Public Prosecutor's Office requested the opening of the adversarial investigation, which is the phase that seeks to explain and complete the circumstantial evidence through a broader investigation.

In this phase, the Public Prosecutor's Office was interested in obtaining a clarification about who ordered the guns from the arsenal and who returned them to the same place. The Public Prosecutor was

also interested in ascertaining the circumstances under which the vehicle used in the crime was sold and was then later lent out to the men who shot Anastácio Matavele dead. To this end, a confrontation was requested between the legal owner of the vehicle (Henriques Machava, mayor of Chibuto) and the supposed buyer. The court accepted all the measures requested by the Public Prosecutor's Office.

Also during the adversarial investigation, the lawyer for the victim's family asked the Gaza Provincial Law Court to take measures to obtain extracts of the telephone conversations between the accused on 5, 6 and 7 October 2019. This is a measure regarded as essential, since there is a strong chance that



the recordings of the conversations between the accused on the eve of the murder and the day of the crime itself may reveal facts that would be important for the definitive charge sheet.

However, the court announced no decision with regard to this request by the family's lawyer. That is, it did not order the mobile phone companies to provide extracts from the conversations between the accused, but nor did it reject the request. Under the law, the judge may reject measures requested, if he regards them as irrelevant for the discovery of the truth. But this rejection should take the form of a dispatch giving reasons. And not mere silence.

Faced with the Court's silence, the family's lawyer may advance with an insistence to obtain extracts from the calls between the accused.

But there is a problem here: the Court may, if faced with an insistence, authorise the measure and, in response, the phone companies may say they do not have available the extracts of phone calls made four months ago (on 5, 6 and 7 October 2019). Hence, there is a fear that the Court's silence towards a request made by the lawyer for the victim's family in November 2019 may be deliberate, precisely in order to make access to the conversation difficult.

The strategy of the accused – blame those who are absent

The CDD has ascertained that the accused who are detained are using the strategy of blaming their "colleagues" Nóbrega Chaúque and Martins Wiliamo – who died in the traffic accident that happened immediately after the crime, and the only one of the accused who is on the run, Agapito Matavele.

For example, Euclídio Mapulasse, who is awaiting trial in prison, claimed, in his first interrogation, that the order was "to shoot at the victim's legs to prevent him from walking", and not necessarily to shoot to kill, as happened.

But, after receiving instructions, Mapulasse gave another version, claiming that he did not even know what the mission was to which he had been called by Agapito Matavele, now a fugitive. Furthermore, he said that those who requisitioned the guns from the barracks and fired on the social activist were the fugitive Agapito Matavele and the late Nóbrega Chaúque and Martins Wiliamo.

As for the Frelimo campaign T-shirts and caps which the death squad received, Mapulasse admitted

that he had picked up the propaganda material from the premises of the ruling party in Xai-Xai, but said he did so on the instructions of Agapito. A Frelimo representative heard by the Court said that the propaganda material picked up by Mapulasse had been requested from the party by Agapito Matavele, for himself and his family.

Another of the accused who blamed absent colleagues is Edson Silica, the driver of the vehicle used in the crime. He said it was the late Nóbrega Chaúque who delivered the car to him on the morning of 7 October, and that he only became aware of the mission at that moment from the fugitive Agapito.

For their part, the two commanders of police sub-units, namely Tudelo Guirruogo, of the Special Operations Group, and Alfredo Macuácuá, of the Rapid Intervention Unit,

also deny giving orders for the murder of Anastácio Matavele. They say that at no time did Agapito Matavele, regarded as the head of the death squad, tell them anything about the mission.

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Agapito Matavele: on the run or protected?

The strategy of blaming people who are absent was thought up in order to make it difficult to explain in full the crime which silenced one of the most non-conformist voices of civil society in Gaza. With the accused pointing fingers at people who are dead and one who is on the run, it will be difficult, at the trial, to determine who really ordered this heinous crime.

In Xai-Xai, it is speculated that Agapito Matavele may have taken refuge in the house of a relative in Tembisa, in South Africa. But nobody can say whether the Mozambican police are still working to locate him or have already closed their investigations.

The assassination of Anastácio Matavele is a state crime (it was coordinated and executed by agents of authority and with guns belonging to the State). It is not credible that the police are mobilising all their resources to locate and arrest Agapito Matavele, the suspect whom today everyone else is blaming.

This fear gains further support from the fact that the General Command of the Police promoted three agents involved in the crime, just as promised. Although the police later said that the promotions had been revoked, the fact is that the General Command has not yet publicly presented the dispatches showing that the promotions were indeed revoked.

Without the arrest of the key figure for clearing up the crime, the autonomous case opened against Agapito Matavele will never have any material to go forward. Since there are no such things in Mozambique as private detectives, the location and capture of Agapito depends solely and exclusively on the Police.

A further aspect of this case worthy of attention is the speed of the “investigations”, in a country where cases normally move at a snail’s pace. For example, the National Criminal Investigation Service (SERNIC) concluded the preparatory investigation in less than two months, a national record for cases as complex as the Matavele murder.

Those who have been in contact with the case file speak of gaps in the “speedy” investigation by SERNIC, and this situation could weaken the definitive charge sheet. Whether they were premeditated or not, these gaps will be exploited by the defence during the trial to minimise the involvement of the accused in the crime.

Speaking of the defence, it should be mentioned that one of the lawyers for the accused is Elísio de Sousa, a jurist who is an outspoken supporter of Frelimo. His latest analyses read like official narratives by those holding political power.

Accused do all to clear the State of responsibility

The CDD has always argued that the assassination of Anastácio Matavele is a state crime. All those involved are agents of the police, some of them in positions of responsibility. The guns used were requisitioned from and returned to State arsenals. The agents acted during normal working hours, and three of those involved were promoted by the General Command of the Police.

But Euclídio Mapulasse and Edson Silica say they became aware of the mission on the day of its execution and acted on their own account. That is, they deny receiving orders from their superiors to assassinate Anastácio Matavele, although one of them let it escape that they were promised promotions in their careers as a reward.

The strategy is to convince the Court and society to believe that the murder of the social activist was

a common crime committed by simple criminals. In this case, the State would not be called upon to bear civil responsibility – that is to pay reparations for the damage done by its agents to the family of Anastácio Matavele.

But there is a way out, albeit a tenuous one. The family lawyer could draw up a private prosecution, if he believes that the interests of the Matavele family are not fully covered by the charge sheet of the Public Prosecutor’s Office. Even so, since this is a public crime, the charge sheet from the Public Prosecutor will always be dominant.


Hence the CDD has always argued, and continues to argue that the “Matavele Case” should be taken to the international mechanisms that defend human rights so that the Mozambican state may be held responsible for the acts of its agents.



EDITORIAL INFORMATION

Property: CDD – Centro para a Democracia e Desenvolvimento
Director: Prof. Adriano Nuvunga
Team: João Nhabanga Tinga, Agostinho Machava, Ilídio Nhantumbo, Denise Cruz, Isabel Macamo.
Layout: CDD

Address: Rua Eça de Queiroz, nº 45, Bairro da Coop,
Cidade de Maputo – Mozambique

 CDD_moz
E-mail: info@cddmoz.org
Website: <http://www.cddmoz.org>

PROGRAMMATIC PARTNER



Comissão Episcopal de Justiça e Paz,
Igreja Católica

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