

## Govindasamy acquitted of relative's rape

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058 04.06.2015 A shop owner speaks on a cellular phone while covered himself with a blanket, some parts around Gauteng are experiencing cold weather. Picture: Itumeleng English

Durban - Senior Durban advocate Mike Govindasamy, who was acquitted of charges of rape and sexual assault laid against him by a young relative, said on Tuesday he bore her no grudge.

“The most important thing now is that the child gets all the help she can. We have been telling the family this from the start and we said it in our representations to the State when the charges were laid,” said Govindasamy, who is a senior counsel and who has previously acted as a judge.

“She is again in trouble and is sitting in jail at present in Cape Town for fraud ... I am not elated ... I forgive my enemies.”

Govindasamy, his wife, Sylvie, and two of his adult children clung to one another emotionally after Judge Fikile Mokgohloa said he was free to go after a relatively brief judgment handed down in the Ramsgate High Court on Tuesday where the judge is sitting on circuit at present.

The young woman, who is now in her mid-20s, alleged Govindasamy indecently assaulted her in 2007 when she was 15. She alleged the incident occurred soon after her mother had suddenly died and she was spending the night with him and his wife, sleeping between them in their bedroom at their Effingham Heights home.

She alleged the rape (in which he inserted his finger into her) occurred in July 2010 after a surprise party for him at his home, when she slept over on a mattress in his bedroom. She said the incident occurred after his wife had left the house at 4am to attend prayers at a local spiritual centre.

She reported both incidents to an aunt, but her father only learnt of her allegations after she was seen by a psychologist soon after the alleged 2010 incident.

Evidence was that it had torn the extended family apart with some labelling her a compulsive liar and not believing her story. Her brother testified for Govindasamy, stressing that she had issues with lying.

Govindasamy denied both charges. He said she had made up her claims because he had threatened to tell her father she had worked as a “tequila girl” at a Cape Town club.

He also attacked her credibility, saying she suffered from personality disorders and was an attention-seeking liar who had previously laid false charges of housebreaking against a housemate and falsely implicated one of her father’s employees in credit card theft.

While prosecutor Dorian Paver suggested in argument that the woman had been honest about how she had previously lied and suggested that “her worst behaviour” had manifested itself after the alleged crimes and could be a result of them, the judge said she was “not comfortable” with the woman’s evidence given her level of dishonesty.

“Although she gave her evidence in a clear and unemotional manner ... I am not satisfied the truth has been told.

“As to the motive (suggested by Govindasamy), this could be reasonably, possibly true.”

The judge ruled as inadmissible evidence regarding the psychologist’s report to the father, because he had not been called to testify.

She said the aunt had provided the “corroboration” required when dealing with the evidence of a single witness, but questioned why the aunt had only told her to “be careful” after the first report and then had left her in the company of Govindasamy after the second report, instead of removing her immediately.

She said the woman’s own evidence of how she had previously been charged with perjury, and the evidence of her doctor that she had a “mixed personality disorder with maladaptive behaviour” and a propensity to lie, showed the extent to which her credibility was affected.

Her brother had “bravely” given evidence about her personality and the cost of this case to their family.

Following his acquittal, Govindasamy’s advocate, Murray Pitman, said the three-year trial had been “arduous”. “This was the correct outcome. And we are happy it is over.”

Govindasamy said he would not consider taking action against his accuser or the State, “not because I agree with what happened, but because I want to move on with my life”.

“My immediate family has grown stronger through this,” he said, adding there was still no communication between them and the father of his accuser.

“We are not on talking terms ... it is up to him now, but I think he had begun to realise the extent of her problems,” Govindasamy said.

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