

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE Number: **121445/2025**

(1)	REPORTABLE: YES/NO
(2)	OF INTEREST TO OTHER JUDGES: YES/NO
(3)	REVISED: YES/NO
2025 20/08.....	

In the matters between: -

FIKILE APRIL MBALULA

APPLICANT

and

ANELE MDA

RESPONDENT

JUDGMENT

BAQWA, J

Introduction

[1] This is an urgent application for an interdict and declarator for an order declaring that the allegations made by the Respondent on her Twitter feed about the applicant are defamatory and false, and that the Respondent's unlawful publication of the statement was and continues to be unlawful.

[2] The applicant also seeks an order directing the respondent to remove the statement within 24 hours from all her social media platforms including the respondent's twitter accounts and among other ancillary orders directing the respondent within 24 hours to publish a notice on her media platforms on which the statement had been published, in which she unconditionally retracts and apologises for the allegations made about the applicant in the statement.

[3] Further, the applicant seeks an order restraining and interdicting the respondent from publishing any statement that says or implies that he was directly or indirectly complicit in the killing of one Wandile Bozwana and that the respondent pay the costs of this application on an attorney and client scale.

Urgency

[4] The applicant submits, and I accept, that the matter is urgent based on the present and continuous harm to dignity that he cannot reasonably be expected to endure with the attendant anxiety and embarrassment brought about by the continued violation of his Dignitas and his rights.

[5] He further submits that there is ongoing and prolonged reputational harm, humiliation, and indignity accompanying the respondent's acts, aided by the

continuous accessibility of the tweets on X. This results in harm justifying the urgent relief sought.

Issues to be determined

[6] The issues to be determined are whether the application is urgent and whether the requirements for an interdict have been satisfied.

[7] This court also has to determine whether the statements complained about are defamatory and whether or not the applicant should bear the costs of the application.

Applicant's Profile

[8] The applicant was elected as the Secretary General (SG) of the African National Congress in December 2022, and before that, he was a member of Parliament (MP) in the National Assembly (MP) from 2009-2023. Prior to that, in May 2009, he had been appointed by the president of the Republic of South Africa as Deputy Minister of Police and later elevated to Minister of Sports and Recreation from 2010-2017. In 2017-2018, he was appointed as Minister of Police. He was also appointed as the Minister of Transport from May 2019 to 6 March 2023, until his appointment as SG of the ANC.

[9] The applicant has also tendered evidence regarding his public profile and a strong social media presence in that he commands approximately 3.2 million followers on X (formerly Twitter) and approximately 713,000 (Seven Hundred and Thirteen Thousand) on Instagram. The number of followers and likes on these platforms sparks conversations which get replies and tend to stay visible for longer in the public space.

The Respondent's Profile

[10] The Respondent portrays herself as a "Global Speaker Panelist TV & Radio Commentator Activist," and she commands a considerable following on Twitter and Instagram in the order of 39,600 and 11,800, respectively. This is confirmed by objective evidence.

Background

[11] On or about October 2015, a prominent businessman, Wandile Bozwana (the deceased), was brutally murdered whilst driving his motor vehicle in Gauteng. The senseless killing of the deceased was well documented in the media.

[12] His killers were arrested, charged and convicted and eventually sentenced to 30 years.

[13] The applicant not only knew the deceased, but they considered each other as friends who socialised together during his lifetime. Not only was he saddened by his brutal murder, but he also spoke at his funeral and conveyed his condolences to the family.

The defamatory remarks

[14] On or about 7 July 2025 the respondent published a statement on Twitter in response to a statement by the applicant reflecting on various issues in the country titled "Replying to Commissioner Mkhwanazi allegations."

[15] The respondent published the following words in English and vernacular:

"Wena igama lakho liyavela ekubulaweni kuka Wandile Bozwana. The question still stands what you were doing in Sandton with the guys who were driving the

car that followed Wandile Bozwana and whose occupants shot and instantly killed Bozwana in 2015, around Menlyn. Awusitsheli lokho! Kwa wena ufanelwe yijele qha.”

[16] The purport of these words loosely translated means that applicant's name appears amongst those who are or were complicit or accomplices in the killing of the deceased. The respondent ends her Tweets with a phrase that respondent cannot possibly respond to her (and others) and that he ought to be incarcerated in jail, supposedly for his alleged involvement in the murder of the deceased.

[17] Moments after publishing the said remarks, respondent waxed lyrical about the issue by publishing a further Tweet where she stated the following:

“Imagine doubting what Lieutenant General Nhlanhla Mkhwanazi said because Fikile Mbalula cast doubt on him. Mbalula has not yet explained why was he seen in Sandton with the occupants of the car that followed Wandile Bozwana, who then was shot at Menlyn in 2015.”

The Law

[18] In Professor Jonathan Burchell's¹ *Principle of Delict* he defines defamation as the “unlawful intentional publication of defamatory matter referring to the plaintiff which causes his or her reputation to be impaired.” In *Mantashe v Zuma*² the following was stated:

“There is no reason why [the applicant] ought to submit himself to further indignities and assaults on his dignity before this matter can be determined. Dignity is not only

¹ *Principles of Delict* (1993) at page 152.

² (2025/094050) [2025] ZA GP JHC 697 (16 July 2025) at para 37.

a value fundamental to the constitution but is also a justifiable and enforceable right that may be respected and protected.”

[19] It is trite that ordinarily, defamation claims ought to be brought by way of action proceedings due to the necessity of oral evidence in the assessment of damages, but a hybrid approach may be adopted where circumstances and facts demand as was done by *Wilson J in Ndlozi v Media 24 t/a Daily Sun and Others*.³

[20] In the present case however the applicant seeks an order for an interdict and that quantum for damages be referred for oral evidence which I accept as a reasonable approach taking into account the facts of this matter.

Persistent Injurious Conduct

[21] The applicant submits that respondent has been persistent in her defamatory conduct despite being warned to desist therefrom and that this has been evidenced by persistent X posts despite having been served with papers in connection with this application.

[22] The applicant argues that by so doing the respondent is displaying intransigent yet relentless behaviour which makes a mockery of the applicant's resort to the court for relief.

[23] The applicant tenders' evidence regarding an insulting post on X dated 26-28 July 2025 after the application was served on her which make insolent utterances which attracted comments of a similar nature from her affirming and agreeable group of followers.

³ (21/25599) [2023] ZAGP JHC 1040.

[24] She posts as follows “Cowards die many times before their death! Mbalula might have SILENCED + ELIMINATED some into wilderness, they were not Anele Mda, and when you come for me, I duly present myself and respond accordingly. When some political careers go up in flames, don’t blame me! Bring it on.”

[25] The conduct referred to above seems to emphasise the exigency of the matter as it appears to prolong an enduring humiliation and defamation of the applicant.

[26] Logic would suggest that after referral of the matter to this court the respondent would show deference to this court on the basis that the matter was sub-judice and change her conduct. Instead, her sheer display of obduracy show disregard for the applicant’s right to dignity which seems to suggest that respondent has thrown all care to the wind.

[27] The continued indignity which the applicant has suffered, so the applicant argues, bears a negative effect an the extent that being a prominent figure, he could be adjudged with a measure of suspicion by his peers thus lowering trust and confidence in him.

[28] The facts in the present matter are comparable to those in *EFF v Manuel* ⁴ in which the Supreme Court of Appeal stated that:

“The position was made worse in regard to the continuing publication of the statement after March 2019, when Mr Manuel had said that the facts were false and demanded a retraction and its removal.”

⁴ [2021] ALL SA 623 (SCA); 2021 (3) SA.

[29] Similarly in the present case the respondent has been informed of the falsity of the allegations in question, but she is obdurate and persists in her conduct.

[30] In *EFF v Manuel* the SCA further stated “The more serious the charge, the more the public is misinformed and the individual harmed, if the allegation is not true. The respondent has more than 12 000 followers on Twitter, and he wields considerable public influence, which in the absence of substantial facts untruthful allegations can and have caused serious damage to the dignity of the applicant.”

[31] The situation in the present case cannot be viewed any differently from that described above. The statements published by the respondent satisfy the basic defamatory content.

[32] The applicant submits that no defences avail the respondents that are usually proffered in similar cases, namely, truth, public interest and fair comment. In *EFF v Manuel* the SCA held that “A defendant relying on truth and public interest must plead and prove that the statement is substantially true and was published in the public interest.”⁵

Respondent's Case

[33] Regarding the post by the respondents dated 8 July 2025 she alleges that she is not the original author of the story which links the applicant to the murder case of Bozwana. She refers to an article published by The Citizen.⁶ It can be accepted with certainty that reliance by the respondent on the said article dated 29 September 2019 is fallacious as the article on its own expresses the views and opinion of a journalist

⁵ *EFF v Manuel* at para 37.

⁶ <https://www.citizen.co.za/news/south-african/crime/Fikile-Mbalula-a-person-of-interest-in-wandile-bozwana-murder>.

and does not provident tangible legal proof of complicity on the applicant's part given the public and incontrovertible fact that the perpetrators of the evil deeds were arrested, tried and convicted. That the applicant was not implicated demonstrates the lack of veracity in any suggestion otherwise. In the circumstances the only inference possible is that the article perpetuates falsehoods as there is no confirmation of the allegation in the publication.

[34] In *Tsedu v Lekota*⁷ the Supreme Court of Appeal held that

"[a] person who repeats or adopts and republishes a defamatory statement will be held to have published the statement. The writer of a letter published in a newspaper is *prima facie* liable for the publication of it, but so are the editor, printer, publisher and proprietor."

[36] It is instructive to read what the respondent says in her answering affidavit. She makes an admission that the information obtained from the "Citizen article (AM3) was never verified by her when she says at paragraph 49: "It is clear that I do not purport to have factual knowledge as to whether he was liable for the murder of Mr Bozwana nor do I state that he was."

[35] Yet she goes on to state a paragraph 50 as follows "I had reached a conclusion that Mr Mbalula must be liable to one degree or the other for some criminal conduct and/or corruption given the frequency his name is reported around crime and corruption." The respondent is in a manner of speaking letting the cat out of the bag when she tweeted what forms the subject of this application when she suggested to her followers that the applicant ought to be in jail. This was the "Citizen"

⁷ 2009 (4) SA 372 (SCA).

information conveyed to the twitter world without any verification. Notably, the portion of applicant having to go to jail is the respondent's own invention.

[36] She further confirms her views at paragraph 52 when she says:

"Where there is smoke there must be fire hence my opinion that he deserves jail time. I find it improbable that he is always embroiled in criminal controversy and is not guilty in each instance." She remains unrepentant and obdurate.

[37] The defences of 'truth' and public 'interest' are not available to a person who does not plead that what she published was substantially true. The respondent herein falls into this category,

[38] What cannot be denied is that the respondent's defamatory remarks constituted an unabated assault on his reputation in the face of objective evidence of the killers of the deceased having been dealt with by our courts. This shows malice and ill-will harboured by her utterances even in her answering affidavit referred to above.

[39] In the circumstances, it is abundantly clear that the Tweets published on a public platform were unlawful and that they were about the applicant.

Interdictory Relief

[40] The requirements for a final interdict are set out in *Setlogelo V Setlogelo*⁸ which was cited with approval in the matter of *Pilane and Another v Pilane and Others*.⁹

[41] An applicant must satisfy the court regarding the existence of the following requirements:

⁸ 1914 AD 221.

⁹ 2013 (4) BCLR 431 (CC).

41.1 A clear right;

41.2 An injury committed or reasonably apprehended;

41.3 There must not be similar protection available to the applicant by any ordinary means or remedy.

[42] In terms of section 10 of the Constitution of the Republic of South Africa:

“Everyone has inherent dignity and the right to have their dignity respected and protected. Evidently the applicant as a public figure with 3.2 million followers on X has suffered and continuous to suffer harm to his reputation, both in his personal and professional capacities through the widespread dissemination of the impugned statements.”

[43] Injury committed or reasonable apprehended.

43.1 The respondent's tweets were published to approximately 37,000 followers and concomitantly accessible to a cascading broader audience. They caused and continue to cause reputational harm for as long as they remain on the platform and are not retracted.

43.2 The applicant, who is a father, and a husband reasonably apprehends, harm to his family through stigma and reputational damage.

[44] Absence of alternative remedy

44.1 In the circumstances, an interdict is the only effective remedy to compel the removal of the statements and prevent further publication, pending any future or alternative damages claim

44.2 The applicant has no alternative remedy to the persisting injury as respondent refuses to apologise or take down the defamatory statement from her social media platforms.

Costs

[45] This case could have been averted if the Respondent had desisted from her conduct upon being requested to do. She has however been adamant to continue with her injurious conduct. The costs order which I make below is therefore justifiable.

[46] In the result I make the following order:

Order

1. The forms and procedures for the Uniform Rules of Court are dispensed with and this matter is heard as being urgent in term of Rule 6 (12) (a).
2. The allegations, made by the Respondent on her Twitter feed about the Applicant, are declared to be defamatory and false.
3. The Respondent's unlawful publication of the statements, which continue, are declared to be unlawful.
4. The Respondent is directed to remove the statements, within 24 hours, from all her social media platforms, including the Respondent's Twitter accounts.
5. The Respondent is directed, within 24 hours, to publish a notice on all her social media platforms, on which the statements had been published, and is directed to unconditionally retract and apologise for the allegations made about the applicant in the statements.

6. The Respondent is restrained and interdicted from publishing any statement that says or implies that the applicant was directly or indirectly complicit in the killing of Wandile Bozwana.
7. The Respondent is directed to pay costs on an attorney and clients' scale.



SELBY BAQWA
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, PRETORIA

Date of hearing: 15 August 2025

Date of judgment: 20 August 2025

Appearance

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