



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG**

Case 2026-032265

1. Reportable: No
2. Of interest to other judges: No
3. Revised

A handwritten signature in blue ink is written over a black rectangular redaction mark. The signature appears to be "Wright J".

WRIGHT J

18 March 2026

In the matter between:

DAVID MASONDO

APPLICANT, MAIN APPLICATION

and

RALEBALA MATONE MAMPUELE

RESPONDENT, MAIN APPLICATION

JUDGMENT – LEAVE TO APPEAL - WRIGHT J

1. On 4 March 2026, sitting in the urgent court, I handed down a typed, signed judgment. I held that Mr Mampuele had published statements about Mr Masondo which were prima facie defamatory. In the absence of any evidence by Mr Mampuele to justify his statements I interdicted him from future, like conduct and ordered Mr Mampuele to issue, not a retraction nor an apology, but a correction. The correction was in the form of emails to be sent by Mr Mampuele to the original addressees of the defamatory material. Mr Mampuele was to state that the publications were false and recklessly made without verifying the true facts. This had to be done within twenty four hours of the order,
2. Relief had been sought and was granted in final form.
3. Mr Mampuele now seeks leave to appeal. The notice of motion is dated 12 March 2026. Leave is sought to the Gauteng Division, Johannesburg.
4. Mr Masondo sought neither a retraction, nor an apology nor damages. He sought, among other prayers, a correction. Mr N Maenetje SC for Mr Masondo made it clear during the hearing of the urgent application that Mr Masondo had no intention of instituting action.
5. Mr L J Lowies, for Mr Mampuele in the present application for leave to appeal submits that the correction relief impinges on the right to free speech.
6. Our courts have for many years ordered retraction and apology in defamation cases. These orders are considered with the question of damages. Court ordered retractions and apologies are not free speech but they are granted nonetheless in suitable cases.
7. In my view, the same principle should apply, in appropriate cases, where the relief sought is neither retraction, nor apology nor damages but rather a correction. The fact alone that court ordered correction is not free speech should not be a bar to a correction being ordered in an appropriate case.
8. The question arises, why should a court order a correction when a finding by the court of wrongful past conduct, coupled possibly with an interdict against future wrongful conduct, might suffice ? In my view, the answer is, so that the wrong might be righted by the person who committed the wrong. In the present case, Mr Mampuele was ordered to undo his wrongdoing. This is the other side of the coin of retraction and apology and, in principle, should be as acceptable a remedy as retraction and apology.
9. In his separate concurring judgment in *Dikoko v Mokhatla* (CCT62/05) [2006] ZACC10, paragraphs 105 to 121, Justice Sachs focussed on apology rather than on monetary award as a means of correcting a wrong committed by defamation.
10. In paragraph 109, Justice Sachs held that “ *The true and lasting solace for the person wrongly injured is the vindication by the Court of his or her reputation in the community. The greatest prize is to walk away with head high, knowing that even the traducer has acknowledged the injustice of the slur.*”
11. In paragraph 110, Justice Sachs held that “ *It is the judicial finding in favour of the integrity of the complainant that vindicates his or her reputation, not the amount of money he or she ends up being able to deposit in the bank.*”
12. At paragraph 112 Justice Sachs held that “ *What is called for is greater scope and encouragement for enabling the reparative value of retraction and apology to be introduced into the proceedings. In jurisprudential terms, this would necessitate reconceiving the available remedies so as to focus more on the human and less on the patrimonial dimensions of the problem. The principal goal should be repair*

rather than punishment. To achieve this objective requires making greater allowance in defamation proceedings for acknowledging the constitutional values of ubuntu – botho. “

13. I must be mindful that “ *the hydraulic pressure on all concerned to go with the traditional legal flow inevitably produces a set of rules that are self-referential and self-perpetuating. The whole forensic mindset, as well as the way evidence is led and arguments are presented, is functionally and exclusively geared towards enlarging or restricting the amount of damages to be awarded, rather than towards securing an apology. In my view, this fixed concentration on quantum requires amendment. Greater scope has to be given for reparatory remedies.*” Dikoko at paragraph 117.
14. In paragraph 120, when considering monetary damages and apology, Justice Sachs said “ *Moreover, it is well established that damage to one’s reputation may not be fully cured by counter-publication or apology; the harmful statement often lingers on in people’s minds.*” (My emphasis). It seems that when this passage is read with the balance of his judgment, Justice Sachs is suggesting that counter-publication, or correction, may be considered as a possible separate court ordered remedy rather than just as a factor to be taken into account when considering the quantum of monetary damages, if any.
15. In paragraph 121 Justice Sachs said “ *Whatever renovatory modalities are employed, and however significant to the outcome the facts will have to be in each particular case, the fuller the range of remedial options available the more likely will justice be done between the parties.*”
16. For an in depth discussion on restorative justice, see Face to face: Sachs on restorative justice, by Professor Ann Skelton.
17. In the present case, Mr Mampuele was asked, prior to the launch of the urgent application to desist. He did not. In his answering affidavit he doubled down. In these circumstances, I held that Mr Masondo should be restored to his pre-defamation dignity by the orders made.
18. On the afternoon of 17 March 2026, the day before the hearing of this application for leave to appeal, Mr Masondo’s counsel filed heads of argument. Included in the heads is an argument that Mr Mampuele has preempted an appeal. Two grounds are relied on. First, it is alleged in the heads that straight after my judgment on 4 March 2026, Mr Mampuele addressed supporters outside court. He allegedly expressed his disappointment at the judgment but he also expressed his relief that he had not been interdicted from communicating with the Public Protector or the SAPS. It is further submitted that Mr Mampuele did not tell his supporters outside court that he intended to appeal.
19. In my view, this ground, if factually correct, does not nearly meet the requirement for preemption that acquiescence in the order must be by conduct that points indubitably and necessarily to such acquiescence.
20. The second ground for preemption is that, according to the heads of argument, Mr Mampuele’s attorney, on 6 March 2026, that is two days after the judgment and six days before the present application was launched, sent emails to the necessary addressees, containing the correction as ordered.
21. Mr Lowies, for Mr Mampuele in the present hearing did not suggest that the facts alleged as bases for the preemption argument are not correct. He argued that I should ignore the alleged facts as they do not form part of the record. I shall

assume, in favour of Mr Masondo, but without deciding the point, that the facts are correct.

22. Twenty four hours after my order, Mr Mampuele found himself in a difficult situation. He was venturing into contempt territory but he still had, under Uniform Rule 49(1)(b) another fourteen days within which to deliver an application for leave to appeal. In these circumstances, it would be reaching too far to hold that Mr Mampuele waived his right to seek leave to appeal.
23. That said, in my view, Mr Mampuele would have a reasonable prospect on appeal and there is compelling reason why an appeal should be heard.

ORDER

1. Leave is granted to appeal to a Full Court, Gauteng Division, Johannesburg.
2. Costs in the appeal.



WRIGHT J

HEARD 18 March 2026

DELIVERED 18 March 2026

APPEARANCES :

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