



**IN THE HIGH COURT OF SOUTH AFRICA
EASTERN CAPE DIVISION: MTHATHA**

(1) REPORTABLE: YES/NO
(2) OF INTEREST TO OTHER JUDGES: YES

DATE: 27 MARCH 2026

SIGNATURE:

Case no: 959 / 2021

In the matter between:

APHIWE PIUS LAMLA

Applicant

and

THE MINISTER OF POLICE

Defendant

Summary: Unlawful Arrest – search without warrant sections-22, 29, 40, 50 Criminal Procedure Act-1977 – section 13 South African Police Act-1995. Unjustified and damages awarded.

JUDGMENT

NTLAMA-MAKHANYA AJ

- [1] The applicant was arrested at his home in Bhongweni Township, Phase Two, Mthatha on the 29th of January 2021 by members of the defendant without a warrant of arrest. He was detained at the Mthatha Central Police Station. He was charged for possession and dealing in drugs. He appeared at the Magistrate Court on the 1st of February 2021, and the prosecutor declined to prosecute. Thereafter, he was subsequently released. Aggrieved by the conduct of the members of the defendant, he instituted a claim for damages for the said arrest and alleged that it was in violation of his constitutional rights.

- [2] The matter was opposed by the defendant.

- [3] The matter proceeded before this Court on both merits and quantum.

- [4] The parties agreed that the defendant had a duty to begin to justify the lawfulness of the arrest and the applicant to prove the reasonableness of the claim for damages.

- [5] The main question before this Court was to consider whether the alleged unlawful arrest and subsequent detention of the applicant were lawful. Simply put, whether the arresting officers had reasonable grounds to believe the applicant's arrest and detention were justifiable.

- [6] In traversing the main question, it is essential for this Court to provide a brief background on the sequence of events that resulted in the claim for damages against the defendant. Both parties called one witness each. The defendant was represented by the arresting officer whilst the plaintiff testified on his behalf.

BACKGROUND

- [7] The applicant was arrested by SAPS members at his homestead in Bhongweni Township: Phase 2, Mthatha on 29 January 2021 at about 23h30 in the evening. He was suspected of selling drugs following a tip-off from the resident of the said Township. His arrest was effected by Seargent Tebello Mketu with Seargent Ndamase. During his arrest it also turned out that there were two other Officers that were involved in the arrest. On their arrival at the applicant's homestead, they knocked and the applicant opened the door and was shocked to see the Police wearing Head Gears (balaclavas) and two (2) other Officers pointing a firearm at him. He then retreated behind the door and hid beneath the couch. At the house, he was with two of his friends: Sinovuyo Giqua (Sinovuyo) and Xolani Cuba (Xolani) excluding his mother who was at her other house that turned out to be her rental flats. The Police told him that they were there to conduct a search for drugs. During the search, they found 4 sachets of Tik (crystal meth) from the applicant. Thereafter, he was arrested and transported and detained at Mthatha Central Police Station (Police Station) where he was charged for possession and dealing in drugs. He was informed of his constitutional rights and signed a warning statement. He was detained from the evening of the 29th of January 2021 until his subsequent transportation from the Police Station to the Magistrate Court in the morning of the 1st of February 2021. Whilst awaiting at the Magistrate Court, he was called and only to find out that it was a Legal Representative that was organised by his mother. The Legal Representative informed him that prosecution declined to prosecute him because there was no evidence of a successful prosecution.
- [8] This background laid the foundation to determine the efficacy of the parties' submissions in this matter.

PARTIES SUBMISSIONS

[9] The purpose in this section is not to exhaust the submissions but to highlight the foundations of this case.

Defendant

[10] The defendant called one witness: Seargent Tebello Mketu whom I will simply refer to as the defendant.

[11] The defendant submitted that he reported for duty at 18h00 and thereafter went to patrol with Seargent Ndamase in a marked Police Van at Bhongweni Township, Phase 2. Whilst on patrol, at about 19h00, they received a tip-off from the resident of the Township that drugs were being sold at the applicant's homestead. The defendant (Seargent Mkefu, Sergeant Ndamase Constable Mzamo and Constable Sasing) went to applicant's homestead at about 23h30 despite the tip off at around 19h00. The purpose was to avoid people running away in case of seeing police approaching. Upon their arrival, they knocked and the applicant opened the door for them. They advised him of the purpose of their visit that they were to conduct a search for drugs. During their search they found four (4) sachets of crystal meth (Tik) from applicant (Aphiwe) They arrested him without a search and warrant of arrest for possession of drugs and informed him verbally of his rights. He was then taken to Central Police Station. On arrival, he opened a docket and entered the SAP13 Book which records the items that have been confiscated and to be used as evidence in court. Thereafter, the applicant was put into the holding cells and was charged for possession and dealing in drugs. At about 4am he was read of his constitutional rights which were explained to him in IsiXhosa alongside the charge of possession of drugs as envisaged in SAP14A. A warning statement was also read and the purpose of his arrest and detention was also explained to him and in turn for him to write his own statement. The defendant (Seargent Mkefu) averred that the applicant admitted that the drugs found in him was his and addicted to them to fulfil his own desires.

[12] The applicant was then taken into custody, and the Detention Officer took over responsibility and prepared the Occurrence Book (OB) which records the sequence of events that are essential for investigation and presentation of evidence in court. The applicant was then taken to court on the 01st of February 2021.

Plaintiff

[13] The plaintiff testified on his behalf. The gist of his submissions was already captured in the background and defendant's submission. This section will not make any comprehensive details of his submissions. However, it is also essential to highlight that he submitted that at the time of his arrest, he was awaiting his Grade 12 (Matric) results and was not on full-time employment. He was working on an *ad hoc* basis and once had a contract with Telkom. At the time, he was working as a Labourer at Makalane Construction which is a sub-contractor to Mahlubi Construction. He submitted that at his residence, he was with his friends (Xolani and Sinovuyo) consuming alcohol when the Police arrived. He submitted that he opened the door and was shocked to see them in Head Gears pointing a firearm at him. In turn, he exclaimed and asked them what they were doing at his place. He also submitted that he was never told of his rights because he was clever and knew them. He dismissed the defendant's contention that they did not point firearms at him who then dropped them. Further, he submitted that they were transported in different vehicles and were not taken directly to the police station, but with one van that went *via* Zimbane Valley whilst the other van turned to Ngangelizwe. On arrival at the police station, he was told to wait for another young man who turned out to be Sinovuyo. In addition, he submitted that he was not advised of his rights at the Police Station and was coerced to sign the documents without being explained to him or translated into IsiXhosa. He also submitted that the conditions at the cells were inhuman with blocked toilets, cold, pouring rain, lack of privacy, overflowing waste and food could not be eaten.

Broadly, with these submissions, he denied that the Tik (crystal meth) was found in his possession.

- [14] To avoid duplication and conflation of arguments, the submissions provide the subject of contention which now requires a focus on key issues in addressing the content of this application.

ISSUES

- [15] Flowing from the submissions above, this Court will determine the following primary issues to establish whether:

- (i) *The plaintiff was searched and arrested unlawfully.*
- (ii) *The defendant had reasonable grounds and proper discretion in carrying the arrest.*
- (iii) *The defendant's conduct itself resulted in unlawful arrest and detention of the plaintiff and*
- (iv) *Quantum of damages, if any, ought to be awarded to the plaintiff.*

- [16] These issues necessitate the discussion of the principles that are well-established in matters that are similarly situated with case.

LEGAL FRAMEWORK

- [17] In resolving the dispute between the parties, this Court is guided by the regulatory framework that constitutes the legal foundations for the SAPS' functioning. In this regard, the South African Police Service Act 68 of 1995 (SAPS Act) read with the CPA serve as a benchmark against which to test the rationality of the action of the police conduct. Of further importance is their grounding on the transformative principles of the Constitution of the Republic of South Africa, 1996 (Constitution) relating to the SAPS role in promoting the

principles of constitutional democracy. This is motivated by Swain JA in *W v Minister of Police*¹ who held:

“The Constitution imposes a duty on the state and all of its organs not to perform any act that infringes the entrenched rights such as the right to life, human dignity and freedom and security of the person. This is termed a public law duty ... [and its] ...breach ... gives rise to a private law breach of [a person’s] right not to be unlawfully detained which may be compensated by an award of damages. There can be no reason to depart from the general law of accountability that the state is liable for the failure to perform the duties imposed upon it by the Constitution, unless there is a compelling reason to deviate from the norm.”²

[18] This is the tone set for this Court to address the issue raised herein with reference to the claim itself of search and arrest without a warrant. The main question focused on establishing the alleged unlawfulness and unreasonableness of the arrest without a warrant. The CPA lays down the framework for exceptional circumstances where a search may be conducted without a warrant. In these situations, a police officer, as defined in section 1(x) read with section 5(2) of SAPS Act, may be justified in conducting a search and arrest without a warrant if a reasonable belief existed that there were articles or properties that may be used for the commission of an offence. The CPA is explicit in protecting the carriage of search and arrest without a warrant as envisaged in section 22 which provides:

“A police official may without a search warrant search any person or container or premises for the purpose of seizing any article referred to in section 20:

- (a) if the person concerned consents to the search for and the seizure of the article in question, or if the person who may consent to the search of the container or premises consents to such search and the seizure of the article in question; or
- (b) if he on reasonable grounds believes:
 - (i) that a search warrant will be issued to him under paragraph (a) of section 21 (1) if he applies for such warrant; and

¹ *W v Minister of Police* [2015] 1 All SA 68 (SCA).

² *Ibid* at para 28, cited by Tshiqi J in *Mahlangu v Minister of Police* 2021 (7) BCLR 698 (CC).

- (ii) that the delay in obtaining such warrant would defeat the object of the search.

[19] It is further provided in section 40 that:

(1) a peace officer may without warrant arrest any person:

- (a) who commits or attempts to commit any offence in his presence;
- (b) whom he reasonably suspects of having committed an offence referred to in Schedule 1, other than the offence of escaping from lawful custody; (Emphasis mine.)

...

(2) If a person may be arrested under any law without a warrant and subject to conditions or the existence of circumstances set out in that law, any peace officer may without warrant arrest such person subject to such conditions or circumstances.

[20] These provisions (22 and 40) require the police to exercise due care and diligence in securing a justified unlawful arrest. They serve as an empowering role to section 12(1)(a) of the Constitution which guarantees the security and freedom of the person including the right not to be arbitrarily deprived of freedom without just cause.

[21] Another stimulant for this Court is section 29 of the CPA which seeks to move beyond the arrests itself to ensure what I refer to as “empowerment of police officers” in the exercise their duties. This section reads as follows:

“A search of any person or premises shall be conducted with strict regard to decency and order, and a woman shall be searched by a woman only, and if no female police official is available, the search shall be made by any woman designated for the purpose by a police official.” (emphasis mine.)

[22] This section provides the highest standards in the execution of police officers duty to ensure they uphold the transformative principles in the functioning of the

Police Service. It strategically operationalises the way in which the police must fulfill their duty. It is a groundbreaking section that seek to ensure that police officers should have a firm understanding of authority and responsibility that is bestowed on them in ensuring stability in societies. It seeks to give substantive effect to the procedural safeguards of arrest without a warrant are not relegated to a sphere of non-significance.

- [23] Therefore, the application of this framework is of necessity to determine its significance and evolution of the principles and state liability *vis-à-vis* individual rights.

ANALYSIS

- [24] In this case, the evidence was consistent that the SAPS visited the applicant's homestead on the night in question. Thus, the contradictory evidence related to the plaintiff's arrest, pointing of a firearm, search and seizure, his transportation and aspects relating to compliance and substance of effecting an arrest. Sachs J in *Minister of Safety and Security v Van Niekerk*³ provided guidance in this regard. In that case, Sachs J filled in what may be viewed as a gap between procedure and substance and held:

*“ ... [the] demonstration of the constitutionality of an arrest will almost invariably be heavily dependent on its factual circumstances ... [which are] highly fact specific. ... [and] those involved in the day-to-day exercise and supervision of the power to make arrests are usually best positioned to establish appropriate operational parameters concerning the discretion to arrest ... [and] the lawfulness of an arrest will be closely connected to the facts of the situation.”*⁴

³ *Minister of Safety and Security v Van Niekerk* 2007 (10) BCLR 1102 (CC).

⁴ *Ibid* paras 17-18.

[25] It is evident that police officers are not spared of any self-responsibility to start by policing themselves in ensuring the prescripts of constitutional democracy as envisaged in the CPA and SAPS Act. In a claim for damages which will have to be tested against the conduct of the police officers, Theron J in *De Klerk v Minister of Police*⁵ set out the context and principles to be proved and held:

- (a) the applicant must establish that their liberty has been interfered with.
- (b) the applicant must establish that this interference occurred intentionally. In claims for unlawful arrest, a [applicant] need only show that the defendant acted intentionally in depriving their liberty and not that the defendant knew that it was wrongful to do so.
- (c) the deprivation of liberty must be wrongful, with the onus falling on the defendant to show why it is not; and
- (d) the applicant must establish that the conduct of the defendant must have caused, both legally and factually, the harm for which compensation is sought.⁶

[26] In turn, the test for reasonableness of the arrest was well articulated by Andrews AJ in *Zilwa v Member of the Executive Council for the Department of Transport and Public Works*⁷ who held that it must be objectively sustainable which would in turn raise a question whether:

“... [A] reasonable [person] in the second defendant's position and possessed of the same information have considered that were good and sufficient grounds for suspecting that the plaintiffs were guilty of the conspiracy to commit robbery or possession of stolen property knowing it to have been stolen?”⁸

The Judge went on to contextualise the test and held:

⁵ *De Klerk v Minister of Police* 2019 (12) BCLR 1425 (CC).

⁶ *Ibid* at para 14.

⁷ *Zilwa v Member of the Executive Council for the Department of Transport and Public Works* [2026] ZAWCHC 4 citing with approval *Mabona v Minister of Law and Order* 1988 (2) SA 654 (SE).

⁸ *Ibid* para 43.

“...[I]n evaluating his information a reasonable man would bear in mind that the section authorises drastic police action. It authorises an arrest on the strength of a suspicion and without the need to swear out a warrant, i.e. something which otherwise would be an invasion of private rights and personal liberty. The reasonable man will therefore analyse and assess the quality of the information at his disposal critically, and he will not accept it lightly or without checking it where it can be checked. It is only after an examination of this kind that he will allow himself to entertain a suspicion which will justify an arrest. This is not to say that the information at his disposal must be of sufficiently high quality and cogency to engender in him a conviction that the suspect is in fact guilty. The section requires suspicion but not certainty. However, the suspicion must be based upon solid grounds. Otherwise, it will be flighty or arbitrary, and not a reasonable suspicion.”⁹

[27] In this case, during cross-examination, which is interlinked with arguments, the test of reasonableness to execute the arrest without warrant served as a benchmark to establish the credibility and exposition of the defendant's testimony. The plaintiff focused on the following issues which were recorded in the statement. First, dagga was recorded as a drug that was found on the applicant instead of Tik (crystal meth) that the defendant led in his chief examination. Secondly, the defendant stated that the Tik was sent to the lab for forensic analysis and the results were not available since the day it was sent for testing. Thirdly, the defendant's assumption about the weight of the Tik despite its record as carrying 0.002mg in the statement. Fourthly, the pointing of a firearm and arrest and detention without a warrant itself. This Court need not conflate these factors because they are a cornerstone to determine the lawfulness and reasonableness of the arrest. Alternatively, to establish an unjustified arrest without a warrant.

[28] The applicant pointed out the evidence of the defence as unreliable and should not be admitted by this Court relating to the drug and its weighting. In this instance, the defendant confirmed the unavailability of the forensic results and his role as the Arresting Officer ended with opening the docket and preparation of SAP13. Thereafter, the docket was handed to Investigating Officers to do further investigation to confirm the suspicion of Arresting Officers. The defendant

⁹ Mabona in Zilwa paras E-H.

conceded his mistake about the weight attached to the Tik which was recorded as 0,002mg in the statement whilst there was no physical scale to weigh it except for his assumption. In addition, he also conceded the mistake and attributed it to the Detention Officer who recorded the drugs found on the applicant as “Dagga” as opposed to “Tik”. On reply, he confirmed that he was active in searching the applicant whilst others searched the house. This was the crux of this application whether the defendant reasonably believed that an illegal substance was being sold at the applicant’s homestead to an extent of executing the search and arrest without a warrant.

[29] In the circumstances of this case, the test of justifiability of section 40(1)(b) of the CPA seeks to establish the veracity of the information relating to the arrest itself. During cross-examination, the defendant was not economical with the truth. He did not deny that they received a tip off around 19h00 and opted to go and do the search at around 23h30. The operation was conducted without a warrant for search and arrest. He justified this approach and put before this Court that since it was in the evening and weekend it was impossible to apply and get it because of the possible or existing opportunity that the drugs may be concealed or destroyed. A reasonable suspicion does not entail intentional wrongdoing but involves the differentiated justification from the one alleged by the applicant. Therefore, the defendant, on receipt of the tip-off, went to the plaintiff’s homestead to confirm its reasonableness, which in turn informed them to execute the search and arrest. This fits within the context of the rule of law as Nugent JA in *S v Mabena*¹⁰ held:

“The Constitution... proclaims the existence of a State that is founded on the rule of law. Under such a regime legitimate state authority exists only within the confines of the law, as it is embodied in the Constitution that created it, and the purported exercise of such authority other than in accordance with law is a nullity. That is the cardinal tenet of the rule of law. It admits of no exception in relation to the judicial authority of the state. Far from conferring authority to disregard the law the Constitution is the imperative for justice to be done in accordance with law.”¹¹

¹⁰ *S v Mabena* [2007] 2 All SA 137 (SCA).

¹¹ *Ibid* at para 2.

[30] The context of section 40(1)(b) was expatiated by Nugent JA that the authority to arrest without a warrant must comply with the Constitution because of its supreme commitment to the rule of law. Section 40(1)(b), which was therefore given meaning by Nugent JA, demonstrates how police are to exercise their authority. Police Officers are required to exercise due care and without any act of impunity. There was also no claim of aggression against the applicant to the extent of undermining the application of section 29 which requires decency in effecting arrest.

[31] The defendant might have held a reasonable suspicion to satisfy the requirements of section 40(1)(b), however, such suspicion must be tested. The test requires an investigation to comply with section 40(1)(b). This is also linked to section 13(1) of the SAPS Act which requires the “performance of duties and functions that are conferred to a police official by law.” This Court is stifled by the arrest of the applicant on Friday and then taken to court on Monday, which then places at risk the credibility of reasonableness in the execution of the arrest and search without a warrant. The is borne by the question whether there was investigation that will inform and ensure sustenance of the integrity and justification of the arrest without a warrant before the court of law. This may be attributed to section 50(1) of the CPA which requires a “person to be taken to court within 48 hours and if they fall outside the ordinary hours should be taken on the first ordinary court day” as in this case. I am of the view that this provision limits the proper investigation of the alleged offence which equally tighten the police officers in terms of ensuring their full-scale investigation of a committed crime. The established facts were that the defendant (Arresting Officer) ended his role with signing off the SAP13 wherein the case is taken over by the Investigating Officers. The investigation diary including the witness statement signed by Seargent Ndamase did not provide any evidence relating to the investigation itself except for the reproduction of the statement by the Arresting Officer (Seargent Mketu). It appears to me that there was never follow-up to

investigating the case before the appearance of the applicant in court and having the matter prosecuted to its finality. I believe the police are constrained in their functioning as they must comply with the rule of law as envisaged in section 50(1) of the CPA. However, does it mean the police have to take cases to court with no prospects of prosecution let alone their success? It is my view that prosecution was justified in declining to prosecute because of the lack of evidence for possible success in prosecuting the case.

[32] Further, the applicant argued that if it was not for his unlawful arrest and detention, he could not have been subjected to inhuman conditions. His further subjection to prosecution, which was declined by the prosecutor, resulted in a deteriorated relationship with his mother and members of the community that viewed him with suspicion following his arrest. Of further concern was the death of his dream to further his education.

[33] However, this Court is not to succumb to judicial emotions and feel sorry for the applicant. It made a case to justify the defendant's conduct of effecting the arrest without a warrant. This Court's justification was in vain because it is evident that the arrest was never followed by an investigation to confirm the reasonable suspicion of the Arresting Officers. The rule of law is the cornerstone of all state functionaries in carrying the aspirations for crime free and just societies. This Court is also not to overreach and hide behind the application of section 50(1) above. Of importance in the circumstances, was to highlight what could and continues to be a challenge for police officers. The reasonableness to effect arrest without a warrant end up not tested by a proper investigation. In turn, as all functionaries must execute their duties within the framework of the law, this Court is not to second-guess the law-making function of Parliament. It is my opinion, despite the reasonableness of the arrest, the evidence must be considered in totality without one segment missing with a consequent result of matters concerning not seeing a courtroom. Let me reiterate, the provisions of sections 20, 22, 29 and 40 of the CPA and 13(1) of SAPS Act will remain untested with a

potential to leave credible evidence without being analysed to ensure its contribution to social change.

The determination of quantum

[34] The Constitution places great emphasis on the liberty of the person and unlawful deprivation of freedom constitutes a “serious infringement of his constitutional rights.”¹² to freedom and security of the person and to human dignity.” The applicant was arrested for a short period of time despite his subjection to inhuman conditions in the cells. I am of the view that the defendant should not be faulted in this regard because the constitutional obligation *vis-à-vis* the rights of the applicant were to be balanced against each other. The applicant was taken to court within 48 hours of his arrest, which were calculated and inclusive of the weekend hours. I am mindful of the fact that the arbitrarily deprivation of freedom and security of the person undermines the significance of the rights that are then contextualised within the framework of section 35 of the Constitution.¹³ The interdependence of rights and values as both justifiable and justiciable rights serves as the cornerstone of determining the lawfulness of the alleged arrest. It also seeks to address whether a suspicion in the circumstances of each case was justifiable, and the arrest itself was not motivated by impunity. On the other hand, this Court is also of the view that rights should not be interpreted outside the scope of responsibility.

[35] The plaintiff claimed an amount of R450 000. 00 for damages because of the impact of the arrest without a warrant, inhuman conditions at the detention cells and the decline of the prosecution to prosecute because there “was no case”. He structured the claimed amount as follows:

¹² Kathree-Setiloane AJA Motladile v Minister of Police 2023 (2) SACR 274 (SCA) at para 22.

¹³ See Tshiqi J in Mahlangu (note 2 above) at paras 43-4.

- (i) *R150 000.00 for wrongful, unlawful and malicious arrest.*
- (ii) *R150 000.00 for wrongful and malicious detention from the 29th of January 2021 to 01 February 2021.*
- (iii) *R150 000.00 for contumelia.*

He then prayed for the total sum:

- (i) *R450 000.00.*
- (ii) *Interests on the aforesaid amount at the legal rate from the date of service of summons to date of payment.*
- (iii) *Costs of suit together with interest thereon at the rate calculated from a date (14) days from the allocator. and*
- (iv) *Alternative relief.*

[36] The claim for damages should therefore be tested against its purpose and not to enrich the aggrieved party. The courts had long settled that claim for damages against the executive should be justified within the framework of the harm suffered. The courts are also not allowed to make awards for a simple reason that there was an alleged unlawful arrest. The courts are to be cautious and determine the rationality of the award on a case-by-case basis which was expressed by Bosielo JA in *Minister of Safety and Security v Tyulu*¹⁴ as he warned the courts that:

“...[They] should be astute to ensure that the awards they make for such infractions reflect the importance of the right to personal liberty and the seriousness with which any arbitrary deprivation of personal liberty is viewed in our law.”¹⁵

[37] The plaintiff therefore, having claimed an amount of R450 000. 00 could not quantify how he arrived at the amount claimed except for the structure of the amounts. His Counsel, during closing argument, also conceded that because they could not quantify the amount, he left it at the discretion of this Court to determine the amount of damage to be paid. This Court discourages the conduct of this nature because it strains

¹⁴ Minister of Safety and Security v Tyulu 2009 (5) SA 85 (SCA).

¹⁵ *Ibid* at para 26.

the judicial resources let alone the public purse. Enormous time is invested in ensuring the quality of access to justice and only to have litigants at the end of the trial that could not justify their case.

[38] However, having considered the evidence in totality, including the age of the plaintiff, his prospects for the future, the nature and the short duration of his arrest and harm caused to his reputation, an award in similarly situated cases, the lax of the investigating officers, it is my opinion that a fair and reasonable amount of R120 000.00 for his arrest, detention and the non-prosecution of his arrest is appropriate.

[39] In the circumstances, the following order is made:

[39.1] The defendant is ordered to pay the applicant an amount of R120 000. 00.

[39.2] Interests on the amount of R120 000.00 at the legal rate from the date of service of summons to date of payment.

[39.3] The defendant is ordered to pay the costs of this application on Scale B including the costs of one Counsel where so employed.

N NTLAMA-MAKHANYA
ACTING JUDGE OF THE HIGH COURT
MTHATHA

Delivery: *This judgment is issued by the Judge whose name appears herein, and its date of delivery is deemed 27 March 2026.*

Date Heard: 21; 22, January 2026; 17 February 2026

Date Delivered: 27 March 2026

Appearances:

Applicant:

Mr Madubela

Instructing Attorneys:

Wanga Baxa Attorneys

Defendant

Advocate ND Ngadlela

Instructing Attorney:

State Attorney

Mthatha