



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

- (1) REPORTABLE: Yes ☐ / No ☒
(2) OF INTEREST TO OTHER JUDGES: Yes ☐ / No ☒
(3) REVISED: Yes ☒ / No ☐

Date: 02 May 2026

[REDACTED]

Case 2026-091623

In the matter between:

**THEUWEDI TRADING ENTERPRISE
(PTY) LTD**

First Applicant

NAKAMPE AUBREY MOLIWA

Second Applicant

and

MEDIA 24 (PTY) LIMITED

First Respondent

ADRIAAN BASSON

Second Respondent

SIKONATHI MANTSHANTSHA

Third Respondent

JEFF WICKS

Fourth Respondent

JUDGMENT

DU PLESSIS J

Introduction

[1] This is an urgent application in which the applicants seek final interdictory relief against the respondents for an article published online by the first respondent, News24, on 16 April 2026 under the headline “Ekurhuleni millions: Questionable operations of shadowy company involved in toilet scandal”. The relief sought includes the removal of the article from News24’s digital platforms and an order restraining the respondents from publishing any statement that says or implies, among other things, that the applicants were directly or indirectly complicit in the killing of Mr Mpho Mafole

[2] The applicants contend that the article is defamatory. Their case is that the questions put to them before publication concerned only their role in the tender, whereas the article, as published, did something materially different: it placed them within a wider narrative concerning Mr Mafole’s investigation into tender irregularities, his murder shortly thereafter, and News24’s broader HUNTED series concerning that murder.

[3] The applicants’ central complaint is not that the article expressly states that either applicant murdered Mr Mafole. Rather, their case is that, through its structure, language, imagery and context, the article conveys the defamatory implication that the first applicant is a non-existent company that does not conduct lawful business and was unlawfully involved in the tender; that the second applicant is corrupt or dishonest; and that the applicants had a motive to procure or participate in Mr Mafole’s murder.

[4] The respondents deny that the article bears any such meaning. They further contend that the publication concerns matters of obvious public interest: the award and performance of a municipal tender funded by public money; the payments made under it; the difficulties encountered in verifying the first applicant’s operational presence and performance; and the background fact that Mr Mafole had probed the tender before his murder. They say that, read as a whole, the article does not accuse the applicants of murder, corruption or criminality, and that, in any event even if it does, the publication is protected by the principles of truth and public interest, fair comment, and reasonable publication as recognised in *National Media Ltd v Bogoshi*.¹

¹ 1998 (4) SA 1196 (SCA).

[5] Since this is an urgent application for interdictory relief, I will approach the judgment as follows: I will first set out some general background information, then address the matter of urgency. Thereafter, I will deal with whether the applicants have established a clear right to final interdictory relief. To determine this, I need to establish whether the article is reasonably capable of bearing the meanings contended by the applicants and whether those meanings are defamatory. I will address certain ancillary questions as they arise. Thereafter, I will address the one other requirement for a final interdict, namely alternative remedies, before turning to costs.

Background

[6] The first applicant is a private company. The second applicant is its sole director. The first applicant was one of fifteen companies appointed by the Ekurhuleni Metropolitan Municipality to provide chemical toilet services under the 2022 contract and again under the 2025 contract.

[7] Before publication, the third respondent, an investigative journalist, put questions to the second applicant and to the applicants' attorneys concerning the first applicant's place of operation, the location of its offices, its ability to service the contract, and related matters. The applicants' attorneys responded that, although the first applicant's registered address was in Tzaneen, it had permanent operational offices and staff in Gauteng, including in Edenvale, and that the director and his immediate family were domiciled in Gauteng. No specific address was provided.

[8] The applicants say that these exchanges show that the contemplated story concerned only the tender and the first applicant's ability to perform it, and that they would have had no difficulty had the publication been confined to that topic. Their complaint is that the article as published went beyond that by placing the first applicant and the second applicant inside a broader narrative concerning Mr Mafole's murder.

[9] The article states that the municipality paid more than R100 million to the first applicant in relation to successive chemical toilet contracts; that the first applicant is one of fifteen companies that obtained a share of a R1.8 billion contract; that its

registered address is in Tzaneen; that it would not disclose the location of its local offices; and that, according to the journalists, it appeared not to meet the tender requirement that successful suppliers maintain offices within the municipal area from which they would operate the toilets.²

[10] The article records the responses given on behalf of the first applicant. It states that the applicants' attorneys said that the first applicant had permanent operational offices and staff based in Midrand and Edenvale, that Edenvale lies within Ekurhuleni, and that the suggestion that services were rendered from a base 400 kilometres away was incorrect and did not reflect the operational reality of the business.³

[11] The article then turns to Mr Mafole. It reports that three days before he was killed in June 2025, he led a probity audit report raising irregularities on the municipality's part in the choice of the companies awarded contracts; that his boss later altered and sanitised the report's findings; and that, three weeks after the killing, the police arrested Thabani Goodwill Ntshalintshali in connection with the murder.

[12] The article appears under the broader "HUNTED" banner, which forms part of a News24 investigative series concerning the murder of Mr Mafole. The applicants submit that the use of that label, together with the image of Mr Mafole and the sequencing of the article, causes a reasonable reader to understand the publication as implying that the applicants had a motive to murder Mr Mafole or were complicit in his murder, and that this is defamatory.

[13] With this background, I now turn to the legal analysis.

Urgency

[14] From mid-February 2026, the third respondent engaged the applicants and their attorneys with detailed questions concerning the first applicant's role in the Ekurhuleni

² See footnote 21.

³ "DL Grundlingh wrote on behalf of Theuwedi on 18 February:

Accordingly, the suggestion that services are rendered from a base 400 kilometres away is incorrect and does not reflect the operational reality of the business or how services are delivered under the tender.

Asked for the address of the facilities, Grundlingh said the information could be obtained directly from the municipality.

The municipality, in turn, pointed us to Theuwedi."

chemical-toilets tender, its operational footprint, its offices, its employees and the sums it had been paid. On 13 March 2026, the respondents made what they described as a final request for information and indicated, in express terms, the broad nature of the intended story.

[15] The article was published on 16 April 2026. The applicants then sent a demand for its removal on 17 April 2026. The application was launched thereafter and ultimately enrolled for a hearing on 28 April 2026.

[16] The respondents argue that any urgency was self-created because the applicants had ample notice of the investigation and of the broad issues to be ventilated. This might be so. The applicants were not ambushed in the ordinary sense. They were aware that their role in the tender, the payments received, and questions about operational capacity were all under active investigation for weeks before publication.

[17] That said, the application is directed not merely at anticipated publication but at an article already published and still accessible online. The applicants say that the publication constitutes an ongoing invasion of reputation and dignity because it remains searchable, shareable and continuously accessible.⁴ The modern digital reality means that such a complaint cannot be dismissed out of hand simply because the first publication has occurred.

[18] I am not persuaded that the proper course is to dispose of the application solely based on urgency. The matter is fully before the Court, the papers are complete, and the issues have been comprehensively argued. The principal disputes concern the meaning of the article, its alleged unlawfulness, and the availability of final interdictory relief. Those questions are materially intertwined with the issue of urgency itself. In those circumstances, little would be gained by attempting to decide one while withholding judgment on the other. The interests of justice in this case lie in resolving the real dispute between the parties based on the complete record and full argument

⁴ Relying on *Moepya v Mokubedi* [2025] ZAGPJHC 1035.

already before the Court, rather than postponing that determination behind a procedural ruling on urgency alone. I accordingly proceed to determine the merits.

Clear right

[19] For a final interdict, the applicant must establish a clear right, and injury actually committed or reasonably apprehended, and the absence of any other satisfactory remedy.⁵

[20] The Constitutional Court and the Supreme Court of Appeal have repeatedly emphasised the constitutional value of freedom of expression, and especially media freedom, in the dissemination of information and ideas on matters of public concern, and cautioned against prior restraint. In *Print Media South Africa v Minister of Home Affairs*,⁶ the Constitutional Court stated:

"In answering this question, regard must, of course, be had to our current jurisprudence on prior restraint, with a view to achieving an appropriate balancing of the scales in relation to this matter. In the context of court interdicts, the Supreme Court of Appeal has, correctly in my view, endorsed the following statement of Lord Scarman:

"[T]he prior restraint of publication, though occasionally necessary in serious cases, is a drastic interference with freedom of speech and should only be ordered where there is a substantial risk of grave injustice".

The case law recognises that an effective ban or restriction on a publication by a court order even before it has 'seen the light of day' is something to be approached with circumspection and should be permitted in narrow circumstances only."

[21] That does not mean the media is insulated from defamation or free to write what they like. It remains a legal inquiry as to whether the respondents have crossed the threshold of acceptable speech.

⁵ *Setlogelo v Setlogelo* 1914 AD 221.

⁶ *Print Media South Africa v Minister of Home Affairs* 2012 (6) SA 443 (CC) at para 44.

Defamation inquiry

[22] To determine whether a publication was defamatory requires a two-step inquiry. Firstly, to establish the meaning of the statement, and secondly, to determine whether this meaning is defamatory.⁷

[23] In the first step, the meaning of the words must be determined objectively. The question is not what the publisher intended, nor what particular readers in fact understood, but what meaning the reasonable reader of ordinary intelligence would attribute to the publication read as a whole, in context, and in its proper setting.⁸ This test is applied to express the words used and the implied meaning of those words.

[24] The reasonable reader or observer is a legal construct that the court relies on to determine meaning. It is an objective test where the court may not hear evidence in the sense in which the *actual* reader or observer of the statement or publication understood the statement.⁹ The comment section on the News24 website is therefore of no assistance to the applicants.

[25] Apart from the ordinary express and implied meanings, innuendos can also amount to defamation in particular circumstances. This is the case where words that otherwise have seemingly innocent meanings on the face of the word can have special (almost hidden) meanings, for reasons that arise from special circumstances that endow them with this meaning.¹⁰ These special circumstances must be pleaded (i.e. that certain innocent words have a specific defamatory meaning in a particular case) and evidence must be led on it.¹¹

[26] To summarise: when reliance is placed on ordinary express or implied meaning, no evidence may be led to assist the court in determining the reasonable reader's

⁷ *Le Roux and Others v Dey* [2011] ZACC 4; 2011 (3) SA 274 (CC); 2011 (6) BCLR 577 (CC) para 89. See *Khumalo and Others v Holomisa* [2002] ZACC 12; 2002 (5) SA 401; 2002 (8) BCLR 771 para 18 onwards for the elements of delict of defamation.

⁸ *Le Roux and Others v Dey* [2011] ZACC 4; 2011 (3) SA 274 (CC); 2011 (6) BCLR 577 (CC) para 89.

⁹ *Le Roux and Others v Dey* [2011] ZACC 4; 2011 (3) SA 274 (CC); 2011 (6) BCLR 577 (CC) para 90.

¹⁰ A classic example is *Cassidy v Daily Mirror Newspapers Ltd* 2 KB 331, where an apparently innocent engagement announcement became defamatory only to readers who knew that Mr Cassidy was already married to the plaintiff, and therefore understood the publication to brand her as an immoral woman living in sin.

¹¹ *Le Roux* para 87.

meaning. When reliance is placed on innuendo, not only must the innuendo be properly pleaded, but evidence must also be led to the special circumstances.

[27] Against that background, it is necessary to consider what the applicants pleaded. They plead that the first respondent intended to convey the innuendo that the first applicant was unlawfully awarded the tenders and, as a result, after Mr Mafole's report was issued, had a motive to have him killed. They say that "[t]he impression that the respondents are creating is false and unjustified". Properly characterised, however, this is a complaint about an implied defamatory meaning arising from the article itself, rather than a true innuendo in the technical sense.

[28] Only once the meaning is established, the second leg of inquiry kicks in, namely, whether the meaning thus established is defamatory. Our courts accept that a statement is defamatory of a plaintiff if it is likely to injure the good esteem in which they are held by the reasonable or average person to whom it has been published.¹²

Defamation on motion proceedings (the interdict)

[29] Once that is established, then it is assumed that the publication was unlawful and intentional. In trial proceedings, the onus will then rest on the defendant to raise a defence which rebuts unlawfulness and intention.¹³ On motion proceedings, the normal rules of motion court, and the well-known *Plascon-Evans*¹⁴ rule will apply.¹⁵ The consequence is that an applicant who comes to court on affidavit must be aware that where genuine disputes of fact arise, the court will decide them on the respondent's version, unless that version is so far-fetched or untenable as to be rejected out of hand. That principle governs factual disputes only. It has no bearing on the determination of the meaning inquiry, which is an objective inquiry conducted by the court independently of what either party says the publication means.

[30] In this matter, there is no material dispute of fact. The *Plascon-Evans* rule, therefore, does not do significant work. The issues are mainly legal: what meaning the

¹² *Le Roux and Others v Dey* [2011] ZACC 4; 2011 (3) SA 274 (CC); 2011 (6) BCLR 577 (CC) para 91.

¹³ *Khumalo and Others v Holomisa* [2002] ZACC 12; 2002 (5) SA 401; 2002 (8) BCLR 771 para 18.

¹⁴ *Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd* 1984 (3) SA 623 (A).

¹⁵ See *Malema v Rawula* [2021] ZASCA 88 paras 72 – 77 for an explanation of how this will operate.

article bears, whether that meaning is defamatory, and whether the respondents' defences are sustainable on the undisputed facts.

Defences

[31] There are mainly three defences available in an instance like this: reasonable publication, fair comment and truth and public benefit.

[32] In *National Media Ltd v Bogoshi*,¹⁶ the court held that in appropriate circumstances, the media may avoid wrongfulness if the publication was reasonable, having regard to all the circumstances, including the nature, extent and tone of the allegation, the steps taken to verify it, the opportunity afforded for comment, the reliability of the sources, and the importance of the matter published. This speaks to the professional standards that journalists are subjected to.

[33] The defence of fair comment provides that evaluative language and comment may also, where the requirements are met, be protected as fair comment or as protected opinion if based on facts that are substantially true and sufficiently stated, and if the comment is one that a fair person might honestly express on those facts.

[34] Lastly, the defence of truth and public benefit is exactly that: the statement is true and in the benefit of the public. It must be both.¹⁷

The pleaded statements

[35] The applicants' complaint arises from the article's own language, visual presentation, sequencing, and placement within the "HUNTED" series. That is a case of implied meaning derived from the publication itself. With this in mind, I now turn to evaluate the specific defamatory statements pleaded.

¹⁶ 1998 (4) SA 1196 (SCA).

¹⁷ Ketler Investment CC t/a Ketler Presentations v Internet Service Providers' Association 2014 (2) SA 569 (GJ) paras 56 – 83.

Theuwedi is a non-existing company that does not conduct lawful business

[36] Firstly, the applicants contend that the article implies that the first applicant is a non-existent company. However, the article expressly identifies the company, refers to the Companies and Intellectual Properties Commission records, states that it has obtained contracts from the municipality over several years,¹⁸ and has received substantial payments, identifies its registered address,¹⁹ and names the second applicant as its sole director.²⁰

[37] The article treats the company as an existing commercial actor, which cannot, in any sensible, objective reading, also convey that it does not exist at all. That pleaded meaning therefore fails at the threshold.

Theuwedi was unlawfully appointed as a service provider

[38] The second pleaded implied meaning is that the first applicant does not conduct lawful business, or was unlawfully appointed. The article does not expressly say that the applicants committed a crime or that the award to them was unlawful in the legal sense. But it does state that it appears the first applicant does not meet stringent tender requirements, and it links that concern to Mr Mafole's audit findings about irregularities on the municipality's part in the bid-evaluation process.²¹

[39] Read objectively, the article conveys that the first applicant may have been awarded a contract in circumstances that raise serious questions about compliance with procurement requirements. That meaning is not far-fetched. But it does not follow that the reasonable reader would understand the article to say that the applicants

¹⁸ E.g. "Theuwedi has also won a stake in the same three-year rolling chemical toilets tender in 2022".

¹⁹ In Tzaneen.

²⁰ "Nakampe Aubrey Moliwa is the sole director of Theuwedi, which was registered in July 2008".

²¹ "Adding to the murk is the company's refusal to divulge where its business operates from within the Ekurhuleni municipal area – a key requirement of the lucrative three-year chemical toilets deal.

As part of the tender specifications, prospective suppliers had to maintain offices within the municipal area from which they would operate the chemical toilets, among other requirements, to win a slice of the contract."

And, for example

"Three days before he was killed in June last year, Ekurhuleni chief auditor Mpho Mafole filed a probity audit report raising several glaring irregularities on the municipality's part in the choice of the companies awarded.

The current contract runs until June 2028. Theuwedi was also a participant in the various chemical toilets contracts since at least 2016, including the one that came to an end in June 2025.

[...]

Mafole found that the evaluation of bids "was not fair and consistent" as the municipal officials had not applied "proper due diligence" when examining the proposals for compliance with the evaluation criteria."

themselves procured the award unlawfully, as opposed to having benefited from an irregular or incompetently administered municipal process.

[40] This distinction is important. A reasonable reader may think less of a contractor if it appears “murky”, evasive, or non-compliant. But the article attributes the glaring irregularities to the municipality, stating that the bid evaluation was neither fair nor consistent because municipal officials failed to exercise due diligence. That makes the statement softer than the pleaded allegation of their unlawful appointment, and is rather aimed at the municipality, not the applicants.

[41] Even if the meaning is taken to be defamatory to some extent, the defences set out in *Bogoshi*²² apply. The article addresses public expenditure, municipal tender compliance, and the circumstances surrounding an auditor’s investigation into procurement irregularities. That is plainly a matter of high public benefit. The article is also reasonable: the investigative journalist sought comment from the second applicant and the applicants’ attorneys, made repeated requests for information, quoted the applicants’ responses, recorded the municipality’s stance, and anchored the allegations in documentary material, including Mr Mafole’s report and municipal payment information. The applicants have not shown that a reasonable-publication defence to this aspect of the article is so clearly unavailable that a final interdict must be granted.

The second applicant is a corrupt criminal, a thief and a fraudster

[42] Third: The applicants also plead that the article means that they are corrupt criminals, and that the second applicant is, in particular, a thief and a fraudster. The article uses none of those words. The pleaded case is therefore necessarily one of implied meaning.

[43] There is substance in the applicants’ submission that, at a general level, the article allows for an everyday, broad (non-legal) understanding of “corrupt” as being opaque, dubious, or tainted by irregularity. This is borne out by the description of the

²² *National Media Ltd v Bogoshi* 1998 (4) SA 1196 (SCA).

first applicant as “shadowy”²³ and by the use of the word “murk”²⁴ in the context of the applicant’s refusal to disclose the location of local offices and the suggestion that the company may not be meeting tender requirements. Taken together, all this can contribute to the loose, everyday impression of the company as “corrupt”.

[44] This, however, is not the same as an article conveying the applicants as criminals, thieves or fraudsters in any legal sense. Nowhere in the article is any of these things alleged. At most, the article raises suspicion and suggests this should be scrutinised. But it does not clearly imply that the applicants committed an identified crime.

[45] To the extent that “shadowy” and “murky” might imply a defamatory meaning, they are an evaluation or opinion of the journalist (fair comment). Seen in context, they are clearly expressions of journalistic scepticism borne by the facts he discloses in the article itself: the lack of publicly available contact details, the reluctance to disclose an address, and the surrounding procurement concerns. This falls within the defence of fair comment, and is therefore a valid defence to defamation. Also, on this point, the applicants have not shown that a defence to this aspect of the article is so clearly unavailable as to warrant a final interdict.

As Theuwedi's only director, the second applicant had a motive to murder Mr Mafole and/or was complicit in the murder of Mr Mafole

[46] The more difficult meanings relate to the murder of Mr Mafole. The first is whether the article implies that the second applicant had a motive to murder Mr Mafole. The article reports that Mr Mafole was investigating irregularities in the tender process; that the first applicant was one of the successful tenderers; that the first applicant had been paid substantial sums under successive contracts; and that Mr Mafole was killed three days after filing his report. When that sequence is placed inside the “HUNTED” series and under the visual framing used by News24, a reasonable reader could indeed infer that all persons whose interests may have been affected by Mr Mafole’s

²³ “The Ekurhuleni Metropolitan Municipality has paid more than R100 million to a shadowy Limpopo company for successive chemical toilets contracts...”

²⁴ “Adding to the murk is the company’s refusal to divulge where its business operates from within the Ekurhuleni municipal area – a key requirement of the lucrative three-year chemical toilets deal.”

report (including successful bidders like the applicants)²⁵ might have had a motive to wish him silence.

[47] I therefore accept that the article, by implication, conveys that the applicants were among those for whom Mr Mafole's investigation posed a threat, inconvenience, or problem, and thus among those who might, in the broad sense, have had a motive to see him dead. However, that does not mean the applicants have established a right.

[48] The applicants have two difficulties. Firstly, the existence of a motive does not constitute wrongdoing, nor does it attribute damage to reputation in any legally cognisable sense. Every person whose interests are threatened by an investigator has a motive to wish that investigation to end. It does not mean that a person acted on that motive. The article does not expressly or impliedly (see below) accuse the applicants of murder. Rather, it places a factual narrative from which a suspicious reader might draw an inference, but not a reasonable reader.

[49] The second difficulty is that the article's main point is that the applicants are part of a group whose commercial interests might have been threatened by Mr Mafole's audit. This is an inference based on the facts, not an explicit or implied assertion of criminal conduct. It attributes a common interest to a group of tender recipients, without stating that any individual, including the applicants, is guilty.

[50] For these reasons, I am not persuaded that the murder-motive meaning the applicants attribute to the article is the meaning a reasonable reader would extract from it. If I am wrong about that, in other words, if the article does carry some imputation of suspicious proximity to the murder, that imputation falls short of the clear defamatory sting required to sustain a final interdict.

[51] The pleaded meaning that the applicants were directly or indirectly complicit in the killing of Mr Mafole goes further. In my view, that meaning is not borne by the

²⁵ "According to Mafole's report, which News24 obtained, the audit team only examined a sample of losing bidders for the project and some of the 15 companies shortlisted for award. They found that some companies were unfairly disqualified, while others were awarded contracts based on similar information provided by the disqualified bidders."

article when it is read as a whole. The article does not say that either applicant killed Mr Mafole. It does not say that either applicant arranged the killing, paid for it, or acted in concert with those who committed it. It does not identify any factual link between the applicants and the arrested suspect, Thabani Goodwill Ntshalintshali.²⁶

[52] It is also relevant that the article expressly states that the glaring irregularities identified by Mr Mafole were “on the municipality’s part”, that his audit was directed at the evaluation of bids, and that others in the municipal structure altered and sanitised his report.²⁷ The article thus casts the principal spotlight on the municipality and those involved in its procurement processes, not specifically on the applicants as perpetrators of murder.

[53] Fifteen bidders were successful. The article highlights a broad range of parties that may be affected by Mr Mafole’s report. Jumping from the idea that “this contractor benefited from the tender and might have been concerned about scrutiny” to claiming “this contractor was involved in murder” is a significant leap. A reasonable reader is neither a scandal-hunter nor overly suspicious.

Alternative remedies

[54] The respondents mainly rely on the availability of the Press Ombud process. It is relevant to the enquiry whether there exists some other satisfactory remedy, especially once the publication has already occurred. As subscribers to the Press Code, the respondents fall within the jurisdiction of the Press Council of South Africa (PCSA), which offers cost-effective and accessible remedies such as ordering a retraction, a correction, an apology and so forth. This is a viable alternative remedy in the context of interdictory relief.²⁸ Given that this case fails on the “clear right” requirement, I need not address it in detail.

²⁶ “Three weeks later, the police arrested Thabani Goodwill Ntshalintshali in connection with the murder.”

²⁷ “Mafole found that the evaluation of bids “was not fair and consistent” as the municipal officials had not applied “proper due diligence” when examining the proposals for compliance with the evaluation criteria. He and his team of auditors were to review paperwork related to the bid evaluation committee (BEC) and the bid adjudication committee (BAC) to ensure fair evaluation policies in choosing or rejecting bids were followed. [...]

This, after his boss, internal audit head Phillip Rakgwale, immediately altered and sanitised the report’s findings, endorsing the probity of the three-year tender to station portable toilets across the metro municipality’s townships.”

²⁸ *Mabote v Fundudzi Media (Pty) Ltd* 2020 JDR 2411 (GJ) paras 30 onwards.

Conclusion on the merits

[55] The article may create unease. It may cast a shadow. It may suggest that the applicants are part of a troubling procurement story. But it does not clearly accuse them of complicity in murder. It does not cross the threshold of legally unacceptable speech.

[56] The respondents are also correct that one must distinguish between a damages action for defamation and a final media interdict.²⁹ The substantive law of defamation remains the same, but the remedy of restraining publication requires additional constitutional caution.

[57] In this regard, one should be cautious about viewing the legal inquiry as a binary contest between the applicant's right to dignity and reputation on the one hand, and the respondent's right to publish on the other. This is an incomplete picture of the constitutional rights involved. There is always a third dimension, namely the public's constitutionally protected interest in receiving information,³⁰ which provides the guidance and framework for the inquiry into the defences.

[58] This right is guaranteed in section 16(1)(b) of the Constitution, and was elaborated on in *Midi Television (Pty) Ltd v Director of Public Prosecutions (Western Cape)*:³¹

"It is important to bear in mind that the constitutional promise of a free press is not one that is made for the protection of the special interests of the press. As pointed out by Anthony Lewis, in a passage that was cited by Cameron J in *Holomisa v Argus Newspapers Ltd*: 'Press exceptionalism – the idea that journalism has a different and superior status in the Constitution – is not only an unconvincing but a dangerous doctrine.' The constitutional promise is made rather to serve the interest that all citizens have in the free flow of information, which is possible only if there is a free press. To abridge the freedom of the press is to abridge the rights of all citizens and not merely the rights of the press itself."

²⁹ See the discussion above in the paragraph on defamation on motion proceedings.

³⁰ *Mazetti Management Services (Pty) Ltd v Amabhungane Centre for Investigative Journalism NPC* 2023 (6) SA 578 (GJ) para 19.

³¹ 2007 (5) SA 540 (SCA).

[59] A final interdict to remove publication or a prior restraint not only affects the parties before the court, but it also removes information that citizens have a constitutional interest in receiving, as in this case. The public has an interest in an article that investigates the award of money, the integrity of a public procurement process, and the fate of an official who investigated and reported on irregularities in that process. These are governance matters of direct constitutional importance, as they engage the founding values of accountability, responsiveness and openness in section 1 of the Constitution. Adhering to those values will, at times, cause discomfort. Investigative journalists who serve those values by providing information that enables citizens to hold government accountable perform a function that is indispensable to a constitutional democracy. It is their independence from the state, not any usurpation of the police's function, that makes their work constitutionally valuable. The public's constitutional interest in this reporting is substantial.

[60] The applicants are not without rights, and the respondents are not without obligations. *Bogoshi*³² makes it clear that journalistic freedom entails a duty of care: journalists must act reasonably, verify what they publish, seek responses, and exercise circumspection. Aggrieved parties may thus have a case in principle when journalists overstep that boundary, but the question this court had to answer was whether the applicant made a case for the remedy they sought.

[61] In the present matter, some of the applicants' pleaded meanings fail outright, while others are only partially sustainable. Those that are partially sustainable are met with defences grounded in the truth and public benefit, reasonable publication and fair comment. This is not the kind of case in which a final interdict against media publication can be granted.

[62] Lastly, it should be stated that an interdict that targets allegations already in the public domain and is aimed at one party is ineffective. As Moultrie AJ (as he then was) put it:³³

³² *National Media Ltd v Bogoshi* 1998 (4) SA 1196 (SCA).

³³ *K.N.G. v T.L.* [2025] ZAGPJHC 1142. See also *Mokate v United Democratic Movement* [2020] ZAGPPHC 377, para 7 and *Mabote v Fundudzi Media Pty Ltd t/a Sunday World* [2020] ZAGPJHC 287, para 28.

“In those circumstances, I cannot see what useful purpose would be served by interdicting the respondent, and her alone, from publishing the allegation when others appear to be able to do so with impunity. Not only has the “proverbial horse” already bolted, it has evidently been left in the meadow to enjoy a life of freedom.”

[63] On the applicants’ own version, the article has been repeated on other platforms in various forms, not merely by linking to the News24 website. An order that only interdicts News24 would amount to censorship.

Prayer 4

[64] Prayer 4 seeks to restrain the respondents from publishing any statement that suggests or implies that the applicants were involved in Mr Mafole’s killing, engaged in irregular or corrupt activities, or that the first applicant was unlawfully appointed under the relevant bid. However, this prayer is overly broad. It is expressed at a very high level of abstraction and would require the court to ban future reports based on meanings not tied to any specific text, factual context, or publication. It would also unduly interfere with future public-interest journalism about a municipal contract, public expenditure, and the murder of an auditor.

Costs

[65] The respondents seek punitive costs on the attorney and client scale, motivated in part by the personal citation of the journalist respondents. I decline to award costs on that scale. Punitive costs are reserved for conduct that is dishonest, vexatious, or an abuse of process. I am not persuaded that it crossed the threshold of the kind of reprehensible conduct that attracts a punitive order.

[66] The applicants are to be ordered to pay the respondents’ costs on scale C. As to the number of counsel, the matter raises constitutional questions about freedom of expression, the right of access to information, the requirements for a final media interdict, and the application of the *Bogoshi* defence in the context of investigative journalism. These are questions of sufficient complexity and public importance to justify the employment of two counsel. The applicants are accordingly to pay the costs of two counsel.

Order

[67] The following order is made:

1. The application is enrolled and heard as one of urgency in terms of Rule 6(12)(a) of the Uniform Rules of Court.
2. The application is dismissed.
3. The applicants are ordered to pay the respondents' costs on Scale C as contemplated in Rule 67A of the Uniform Rules of Court, including the costs of two counsel.


WJ du Plessis

Judge of the High Court, Gauteng Division,
Johannesburg

Date of hearing: 30 April 2026

Date of judgment: 2 May 2026

For the applicant: JH Groenewald instructed by Grundlingh
and Associates Attorneys

For the respondent: A Friedman & S B Nxumalo, instructed by
Lionel Murray Schwormstedt & Louw

