



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

- (1) REPORTABLE: No
(2) OF INTEREST TO OTHER JUDGES: No
(3) REVISED.

SIGNATURE

DATE: 7 May 2026

Case No. A2025-156276

In the matter between:

IKM

Appellant

and

GRM

Respondent

CORAM: WILSON J and WENTZEL J

JUDGMENT

WILSON J (with whom WENTZEL J agrees):

- 1 The Domestic Violence Act 116 of 1998 is an essential tool in the battle to eliminate violence against women and children. In South Africa, the incidence of such violence takes on epidemic proportions. Our failure to protect women and children from domestic violence is an ongoing national crisis. The Domestic Violence Act seeks to address this crisis by allowing victims of domestic violence to activate immediate protection through the police and the Magistrates' Courts. The Act permits victims of domestic violence, or persons

acting in their interest, to obtain interim and final protection orders accompanied by warrants of arrest that may be executed promptly in the event that a repetition of violence is threatened or carried out. The Act defines domestic violence in deliberately broad terms (section 1). The Act also overrides the common law test for the grant of a final interdict and any associated remedial discretion that a court would ordinarily enjoy. A court must issue a final protection order merely upon proof on a balance of probabilities that an act of domestic violence has been committed (section 6 (4)).

2 However, this generous protective regime is open to inappropriate use. In this case, the terms of the Domestic Violence Act have been stretched well beyond their reasonable purposive meaning. The appellant, IKM, is divorced from the respondent, GRM. Although the applicable matrimonial property regime was disputed in the divorce proceedings, the Regional Court found, in the course of granting a decree of divorce, that the parties' marriage was out of community of property, but subject to the accrual system. We were informed at the hearing of this matter that an appeal has been lodged, out of time, against that conclusion, but we are presently required to deal with the facts as the Regional Court found them.

3 Before the divorce proceedings were finalised, on 8 November 2024, GRM laid a complaint of domestic violence in the District Court and obtained an interim protection order against IKM. He claimed that IKM had caused him psychological harm when, on 18 October 2024, she went to his place of work to collect a car she owned, had purchased for his use, on which she was making all the payments and for which she retained a set of keys. GRM was

not present at the time. He had left the car in the company parking lot before leaving for Cape Town. IKM informed the company security guards that she was there to collect her car. The security guards were naturally cautious, but allowed IKM to take the car after they contacted GRM to tell him what was happening, and after the police reviewed IKM's ownership documentation and were satisfied that IKM had the right to take the car. A few of GRM's personal items were removed from the car before it was driven away. Those items were given to the security guards for safe-keeping.

- 4 GRM expanded his complaint with a further incident that he said took place in 2019, during which IKM was alleged to have thrown an ornament of some sort at him in the parties' living room, and with a threat GRM said IKM had uttered during a joint therapy session, also in 2019. Since the District Court declined to grant relief in respect of these alleged incidents, and there is no cross-appeal against that refusal, we need not consider these aspects of the complaint.
- 5 The sole question before us in this appeal is whether IKM's removal of the car from GRM's company parking lot on 18 October 2024 constituted an act of domestic violence under the Act. The District Court found that it did, and it granted an order restraining IKM from going to GRM's workplace again without his consent. The District Court also restrained IKM from entering GRM's home until the divorce proceedings then pending between the parties had been concluded.
- 6 The District Court's decision is inadequately reasoned. The Magistrate simply asserted that what IKM did constituted "emotional and psychological abuse".

That assertion was made without pointing to any relevant evidence, and it cannot be sustained. While attending at GRM's workplace without his consent is conduct that might count as domestic violence, section 1 of the Act makes clear that such conduct must, in addition, harm GRM, or inspire the reasonable belief that harm may be caused to him. GRM said that the incident caused him actual psychological harm. He claimed that the incident had put him in fear of IKM. He also claimed that he was afraid that IKM would start trying to remove possessions from his place of residence.

7 As far as I can see, though, GRM did nothing in the proceedings before the District Court to specify the sense in which IKM's conduct placed him in fear. Nor did he lay the factual foundation for any reasonable belief that IKM might try to take things from his house. It is hard to see how GRM could have feared for his own safety, since he was not present at the time IKM removed the car. It is at least possible that the removal of the car might have caused GRM some sort of psychological anguish, but that was not alleged before the District Court, and no evidence of that was led. I do not think that the removal of the car could in itself have inspired any particular fear or anguish, and the District Court did not conclude that it did.

8 It follows that there was no basis for the District Court's ultimate decision that IKM had committed an act of domestic violence. That is not the same as saying that what IKM did was either appropriate or lawful. It may have been an act of spoliation (although, given that IKM retained a set of keys, the fact that the parties were probably joint possessors of the vehicle might have complicated any such complaint). GRM might also reasonably have felt that

the removal of the car was inappropriately aggressive, given that the Regional Court had not at that point decided the question of the parties' matrimonial property regime.

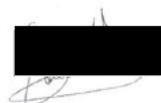
9 Be that as it may, IKM's conduct was not domestic violence. In order to attract the severe consequences of a protection order, which include being subject to immediate arrest on breach, the very wide range of conduct the Act defines as potentially amounting to domestic violence must cause harm of the relevant kind. The Act only applies to conduct that does actual physical or psychological harm, or that inspires reasonable fear of such harm. In the absence of any evidence to that effect, the District Court was wrong to conclude that IKM had done GRM any harm or that she had triggered the reasonable belief that she might cause GRM harm in future.

10 Accordingly –

10.1 The appeal is upheld.

10.2 The order of the District Court is set aside and replaced with an order discharging the interim protection order and dismissing GRM's application.

10.3 Each party will pay their own costs in this court, and in the District Court.



S D J WILSON
Judge of the High Court

This judgment was prepared by Judge Wilson, with whom Judge Wentzel agrees. It is handed down electronically by circulation to the parties or their legal representatives by email, by uploading it to the electronic file of this matter on Caselines, and by publication of the judgment to the South African Legal Information Institute. The date for hand-down is deemed to be 7 May 2026.

HEARD ON: 30 April 2026

DECIDED ON: 7 May 2026

For the Appellant: D Boyce
Instructed by Tracy Sischy Attorneys

For the Respondent: No appearance