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

CASE NO : 2024-058935

(1) REPORTABLE: ~~YES~~/NO

(2) OF INTEREST TO THE JUDGES: ~~YES~~/NO

(3) REVISED.

DATE: 12/5/2026

SIGNATURE:

In the matter between:

ANGEL ERROL RAMPHELE

First Applicant

Identity Number : 6[...]

MARIA ROSA DA ROCHA BARROS

Second Applicant

Identity Number: 6[...]

and

THE MINISTER OF POLICE

First Respondent

**THE NATIONAL HEAD OF THE DIRECTORATE
FOR PRIORITY CRIME INVESTIGATION**

Second Respondent

**THE PROVINCIAL HEAD OF THE DIRECTORATE
FOR PRIORITY CRIME INVESTIGATION, GAUTENG**

Third Respondent

CAPTAIN MANTSÆ PAULINA MAGAGANE

Fourth Respondent

Persal No. 7176709-6

LIEUTENANT COLONEL KS NKOSI

Fifth Respondent

Persal No. 0925545-1

JUDGMENT

A. INTRODUCTION

BOTES, AJ

1. The First and Second Applicants¹ apply for an order in the following terms:

1. The search and seizure Warrant (Section 21 read with Section 20 and Chapter 2 of the Criminal Procedure Act, 1977) signed by Magistrate AME Oosthuizen on 10 April 2024 is set aside.

2. The search Warrant in terms of Section 29(1)(a) of the Cybercrimes Act, Act 19 of 2020 signed by Magistrate AME Oosthuizen on 10 April 2024 is set aside.

3. The Respondents are ordered to return to the Second Applicant all the items seized by the Respondents from the Second Applicant as listed and described in the List of Seized Exhibits Sheets within 3 days from the date of the order.

4. The search and seizure Warrant (Section 21 read with Section 20 and Chapter 2 of the Criminal Procedure Act, 1977) signed by Magistrate M Louis on 10 April 2024 is set aside.

¹ Hereinafter collectively referred to as "the Applicants".

5. The search Warrant in terms of Section 29(1)(a) of the Cybercrimes Act, Act 19 of 2020 signed by Magistrate M Louis on 10 April 2024 is set aside.

6. The Respondents are ordered to return to the First Applicant all the items seized by the Respondents from the First Applicant as listed and described in the List of Seized Exhibits Sheets within 3 days from the date of the order.

7. The Respondents pay costs on an attorney and client scale on Scale A².

2. The Respondents instructed the State Attorney to represent them in this application. The Respondents filed and delivered their Notice of Intention to Oppose this application on **12 June 2024**. The Respondents were dutybound and obliged to file and deliver their Answering Affidavit on or before **4 July 2024**³.

3. Respondents eventually filed and delivered their Answering Affidavit on **31 July 2024**.

4. The following aspects are, on the papers, in dispute:

4.1 Condonation for the late filing of the Respondents' Answering Affidavit;

4.2 Non-joinder of the magistrates who issued the Search and Seizure Warrants⁴; and

² See: The Notice of Motion dated 28 May 2024.

³ Monday, 17 June 2024 was a public holiday.

⁴ Magistrate AME Oosthuizen and Magistrate M Louis.

4.3 Does the Search and Seizure Warrants issued on 10 April 2024 comply with the applicable statutory provisions?

5. The Respondents submit that this application is ill-conceived and without merit and that the relief sought by the Applicants are nothing but an attempt to frustrate the meritorious criminal investigation⁵.

6. The Respondents furthermore submit that the issuing of the search Warrants and the seizure of articles consequent thereupon is a vital, indeed necessary, element in the effective combatting of crime⁶.

7. The Respondents furthermore submit that the Applicants have failed to make out a proper case for :

7.1 The setting aside of the Search and Seizure Warrants authorized in terms of Section 20 read with Section 21 and Chapter 2 of the Criminal Procedure Act, No. 51 of 1977⁷ and the Cybercrimes Act, No. 19 of 2020⁸ and

7.2 The return of the items seized in terms of the search Warrants authorized in terms of Section 29(1)(a) of the Cybercrimes Act⁹.

8. The Respondents therefore conclude that the Applicants are grasping at straws in a desperate attempt to undermine the significance of the role played by Search and Seizure Warrants in the fight against crime and corruption, which conduct this Court should not allow¹⁰.

⁵ See : Paragraph 143 of the Answering Affidavit.

⁶ See: Paragraph 144 of the Answering Affidavit.

⁷ Hereinafter referred to as "**the Criminal Procedure Act**".

⁸ Hereinafter referred to as "**the Cybercrimes Act**".

⁹ See : Paragraphs 145 and 146 of the Answering Affidavit.

¹⁰ See: Paragraph 147 of the Answering Affidavit.

B. CONDONATION OF THE LATE FILING OF THE RESPONDENTS' ANSWERING AFFIDAVIT

9. The Respondents' apply for condonation for the late filing of their Answering Affidavit¹¹.

10. Condonation is not to be had merely for the asking and is by no means a mere formality¹².

10.1 The Respondents are required to furnish a full, detailed and accurate account of the causes of the delay and their effects so as to enable this Court to understand clearly the reasons and to assess the responsibility.

10.2 If the non-compliance is time-related, the date, duration and extent of any obstacle on which the Respondents placed reliance on must be spelled out¹³.

11. The overriding consideration is that the matter rests in the judicial discretion of this Court, to be exercised with regard to all the circumstances of the case¹⁴.

12. It is well-settled that, in considering Applications for Condonation, this Court has a discretion, to be exercised judicially upon a consideration of all the facts, and that in essence it is a question of fairness to both sides. In this enquiry, relevant considerations may include the degree of non-compliance with the rules, the explanation therefor, the prospects of success, the importance of the case, the interest in the finality of the matter, the convenience of the Court and the avoidance of unnecessary delay in the administration of justice¹⁵.

¹¹ See : Paragraph 5 of the Answering Affidavit.

¹² *Rheeders v Jacobz* 1942 AD 395.

¹³ See: *Byron v Duke Incorporated* 2002 (5) SA 483 (SCA).

¹⁴ See: *Melane v Santam Insurance Co. Ltd* 1962 (4) 531 (AD).

¹⁵ See: *United Plant Hire (Pty) Ltd v Hills* 1976 (1) SA 717 (A) at 720E-G.

13. The aforementioned factors are not individually decisive but are interrelated and must be weighed one against the other. Thus a slight delay and a good explanation may help to compensate for prospects of success which are not strong.

14. The Constitutional Court confirmed the aforementioned principle as follows :

"An Applicant for condonation must give a full explanation for the delay. In addition, the explanation must cover the entire period of the delay. And, what is more, the explanation given must be reasonable."¹⁶

15. The Respondents address the:

15.1 explanation of the delay;

15.2 degree of lateness;

15.3 prejudice; and

15.4 prospects of success,

comprehensively in the Affidavit in support of Condonation.

16. In the premises I am satisfied that the Respondents have made out a proper case for condonation for the late filing of their Answering Affidavit.

C. NON-JOINDER OF THE MAGISTRATES CONCERNED: MAGISTRATE AME OOSTHUIZEN AND MAGISTRATE M LOUIS

17. The Respondents submit that :

¹⁶ See : *Van Wyk v Unitas Hospital* 2008 (2) SA 472 (CC) at para 22.

17.1 The object of consideration in this matter is whether the Search and Seizure Warrants issued by Magistrate AME Oosthuizen and Magistrate M Louis were lawfully issued and whether they are valid¹⁷;

17.2 The Applicants seek to set aside the Search and Seizure Warrants issued by the magistrates and for all the items seized by the Respondents from the Applicants to be returned¹⁸;

17.3 The Applicants, *inter alia*, aver in the application that both the Warrants are invalid because the magistrates did not have the authority and jurisdiction to issue the said Warrants¹⁹;

17.4 The Applicants allege that the Warrants are invalid because the Warrants do not satisfy the requirement that both magistrates satisfied themselves that the Affidavit deposed to by the Fourth Respondent in support of the Application for the Search and Seizure Warrants contains insufficient information on the existence of the jurisdictional facts²⁰ and

17.5 As the decision that the Applicants seek to review and set aside was made by the magistrates, the magistrates should have been joined in the proceedings²¹.

18. The Applicants submit that they do not seek to review the decisions of the magistrates who signed the Warrants on the grounds based on the absence of jurisdictional facts. If this was indeed the Applicants' intention, the Applicants would have lodged their application in terms of the provisions of Rule 53 of the Uniform Rules of this Court.

¹⁷ See : Paragraph 9 of the Answering Affidavit.

¹⁸ See : Paragraph 10 of the Answering Affidavit.

¹⁹ See : Paragraph 11 of the Answering Affidavit.

²⁰ See : Paragraph 12 of the Answering Affidavit.

²¹ See : Paragraph 13 of the Answering Affidavit.

19. The Applicants therefore attack the validity of the Warrants as worded in the body thereof and for want of compliance with the applicable statutory provisions and not in the manner how it was issued. The Applicants therefore do not rely on the provisions of Rule 53 of the Uniform Rules of this Court²².

20. Non-joinder is the failure of a Plaintiff to join a particular Defendant with another whom he is suing, in circumstances in which the law requires that both should be sued together, or the failure by a Plaintiff to join himself as co-plaintiff another person whom the law requires should be jointed when suing a particular Defendant or Defendants.

21. The test is whether or not a party has a "direct and substantial interest" in the subject matter of the action, that is, a legal interest in the subject matter of the litigation which may be affected prejudicially by the Judgment of the Court²³.

22. This view of what constitutes a direct and substantial interest has been referred to and adopted in a number of subsequent decisions²⁴.

23. A mere financial interest is an indirect interest and may not require joinder of a person having such interest²⁵.

24. The mere fact that a party may have an interest in the outcome of the litigation does not Warrant a Plea of Non-Joinder²⁶.

25. The rule is that any person is a necessary party and should be joined if such a person has a direct and substantial interest in any Order the Court might make, or if

²² See : Paragraph 5 of the Applicants' Heads of Argument.

²³ See: *Henri Viljoen (Pty) Ltd v Awerbuch Bros.* 1953 (2) SA 151 (O) at 168-170.

²⁴ See: Erasmus, *Superior Court Practice*, 2nd Ed. (Vol2) at D1-124.

²⁵ See : *Hartland Implemente (Edms) Bpk v Enal Eiendomme BK* 2002 (3) SA 653 (NC) at 663E-H.

²⁶ See: *Judicial Service Commission v Cape Bar Council* 2013 (1) SA 170 (SCA) at 176I-177A.

such an Order cannot be sustained or carried into effect without prejudicing that party, unless the Court is satisfied that he has waived his right to be joined²⁷.

26. The Full Court of this Court has held that the rule is not a mechanical or technical one which "must be ritualistically applied, regardless of the circumstances of the case²⁸.

27. The Applicants do not apply for an Order in terms of which the Search and Seizure Warrants issued by Magistrates AME Oosthuizen and M Louis on 10 April 2024 should be reviewed and set aside. The relief which the Applicants apply for in this application pivots on the content of the Search and Seizure Warrants and the absence of Annexure A thereto²⁹.

28. It is therefore evident that Magistrates AME Oosthuizen and M Louis have no "direct and substantial interest" in the relief which the Applicants apply for.

D. DOES THE SEARCH AND SEIZURE WARRANTS COMPLY WITH THE STATUTORY REQUIREMENTS?

29. The Applicants rely on the following grounds for the setting aside of the Search and Seizure Warrants :

29.1 For a Warrant to be valid, the Warrant must in a reasonable intelligible manner describe or specify *inter alia* :

29.1.1 the article to be searched for and seized with sufficient particularity;

29.1.2 the terms of the Warrant must be neither vague nor overboard;

²⁷ See: *Kethel v Kethel's Estate* 1949 (3) SA 598 (A) at 610.

²⁸ See: *Wholesale Provision Supplies CC v Exim International CC* 1995 (1) SA 150 (T) at 158D-E.

²⁹ See : Paragraph 8.2 of the Founding Affidavit.

29.1.3 be reasonably intelligible to both the searcher and the searched person;

29.1.4 the offence which triggered the criminal investigation;

29.1.5 the person issuing the Warrant must have authority and jurisdiction;
and

29.1.6 the person authorizing the Warrant must satisfy himself / herself that the Affidavit of the police official contains sufficient information on the existence of the jurisdictional facts.

29.2 The absence of Annexure A to the Search and Seizure Warrants renders both the Warrants invalid because the Warrants do not meet the requirement that the article to be searched for and seized must be described with sufficient particularity;

29.3 The Search and Seizure Warrants also contain no reference to an Affidavit of a police official. The absence of such a reference renders both Warrants invalid because the Warrants do not meet the requirement that both magistrates satisfied themselves that the Affidavit of the police official contains sufficient information on the existence of the jurisdictional facts;

29.4 Both Search and Seizure Warrants in the body thereof clearly states that the articles that may be seized are documents as per Annexure A. Annexure A did not form part of the Search and Seizure Warrants that were presented to the Applicants on 18 April 2024 and on 19 April 2024 respectively;

29.5 Instead of Annexure A, a document with the heading "Annexure F : Articles" was annexed to both Search and Seizure Warrants. In terms of this Annexure F the articles described therein covered physical or paper documents

from 2013 to date "as intended in Section 29 read with Section 1 and 28 of the Cybercrimes Act read with Section 20(b) of the Criminal Procedure Act;

29.6 Section 29(1)(a) of the Cybercrimes Act states, *inter alia*, that an article can only be searched for, accessed or seized by virtue of a Search Warrant. Section 1 of the Cybercrimes Act defines "article" as data; computer program; data storage medium; or computer system;

29.7 Annexure F that is annexed to both Search and Seizure Warrants refers to articles that do not fall within the ambit of the definition of articles that can be seized in terms of Section 29 of the Cybercrimes Act;

29.8 The wording of Annexure F that is annexed to both Search and Seizure Warrants, renders the terms of the Warrants vague and unintelligible to both the searcher and the searched person because the Cybercrimes Act does not apply to physical or paper documents;

29.9 The relevant sections of the Cybercrimes Act only came into operation on 1 December 2021. The magistrates³⁰ that authorized the Search and Seizure Warrants did not have the authority and jurisdiction to authorize the seizure of the articles listed for "the period 2013 to 30 November 2021"; and

29.10 The Search and Seizure Warrant that was presented to the Second Applicant is vague and unintelligible because the Warrant was given to Magistrate Oosthuizen on 19 April 2024, however Magistrate Oosthuizen signed the Search and Seizure Warrant on 10 April 2024³¹.

³⁰ See: Footnote 4 supra.

³¹ See : Paragraph 8 of the Founding Affidavit.

30. The Applicants therefore submit that both Search Warrants are invalid because the offence is not sufficiently described and the magistrates did not have the authority and jurisdiction to issue the Warrants because the Cybercrimes Act is not applicable³².

31. The Respondents join issue with the Applicants insofar as the validity or enforceability of the Warrants are concerned. The Fourth Respondent deposed to the Respondents' Answering Affidavit in which the following material and important aspects are addressed :

31.1 The Search and Seizure Warrants issued by the magistrates were lawfully issued and they are valid, as it complied with the requirements of Sections 20 and 21 of the Criminal Procedure Act, as well as Section 29 of the Cybercrimes Act;

31.2 Search and Seizure Warrants are a substantive weapon in the armoury of the State and the Court should resist the Applicants' attempt to set aside the Warrants on purely technical grounds, as there was no abuse of power or gross violation of the Applicants' rights;

31.3 The Applications for the Search and Seizure Warrants were triggered by an investigation into offences committed or suspected to have been committed from June 2013 to date involving the South African Army Foundation³³. The Applicants are employed by the SAAF and they (the Applicants) are the subject of a criminal investigation;

31.4 The criminal investigation follows a report by the Financial Intelligence Centre which revealed that the Applicants are reasonably suspected to be involved in the misappropriation of monies of the Group Life Insurance Scheme, amounting to theft;

³² See : Paragraph 9.5 of the Founding Affidavit.

³³ Hereinafter referred to as "**the SAAF**".

31.5 The Fourth Respondent set the jurisdictional facts comprehensively in her Affidavit in Support of the Search and Seizure Warrants, which include the offences that were investigated and in which the relevant sections of various acts alleged transgressed by the Applicants were described and quoted. The Fourth Respondent furthermore divulged information that constitutes crucial evidence of the criminal proceedings that are to be instituted;

31.6 The magistrates issued the Search and Seizure Warrants on 10 April 2024, in accordance with the provisions of Section 21, read with Section 20 and Chapter 2 of the Criminal Procedure Act, and Section 29(1) of the Cybercrimes Act;

31.7 Both the aforementioned Warrants were issued on the strength of the evidence contained in the Fourth Respondent's Affidavit in which she adduced sufficient evidence, under oath, that there are reasonable grounds that the objects connected with the offence may be found on the premises or persons intended to be searched within the jurisdiction of the magistrates; and

31.8 Both Warrants were executed on 18 April 2024 and 19 April 2024 respectively.

32. Lieutenant Colonel Pieter Allen and three other members of the SAPS attended at the Second Applicant's residential address on 18 April 2024 to execute the Search and Seizure Warrants in terms of the Criminal Procedure Act and the Cybercrimes Act. Upon arrival at the Second Applicant's residence the Search and Seizure Warrants were presented to her, and a copy thereof provided to her. The Second Applicant indicated that she did not have an objection to the search and seizure.

33. The Fifth Respondent arrived at the offices of the SAAF to execute the Search and Seizure Warrants. A copy of the Search and Seizure Warrants were handed over to the representative of the SAAF, namely Mrs Monique Muhl.

34. The Second Applicant was granted an opportunity to consult with her legal representative and after such consultation the Second Applicant did not object to the search and seizure. The Second Applicant on the advice of her legal representative did not raise any issue with the Search and Seizure Warrants upon receiving a copy thereof. Even after consulting with her legal representatives, she did not raise any objections.

35. Lieutenant Colonel Jacq Velloen and other members of the SAPS arrived at the First Applicant's residence on 19 April 2024 to execute the Search and Seizure Warrants in terms of the Criminal Procedure Act and the Cybercrimes Act³⁴.

36. At the time of the search, the Warrants were presented to the Applicants, but the Fourth Respondent's Affidavit, which was part of the Application for the Warrants before the magistrates, was not presented to the Applicants. The body of the Search Warrants specifically refers that it appears to the magistrate "from information on oath that there are reasonable grounds to believe that... ". The aforementioned reference refers directly to the Fourth Respondent's Affidavit deposed to in support of the Application for the Search and Seizure Warrants.

37. The Applicants were specifically informed that the Fourth Respondent's Affidavits in question would not be presented to them as such Affidavits contained crucial information relating to the investigation and constituted important evidence. Ordinarily the Affidavit in Support of the Warrant may accompany the Warrant and be handed over with it, but due to the nature of the offences committed and suspected to still being

³⁴ Paragraph 44 of the Answering Affidavit incorrectly refers to "the Second Applicant's residential address".

committed, the limitation of the right of the Applicants to have access to the information in this instance is justified.

38. Upon request of the Fourth Respondent's Affidavits, the Applicants were informed that they should bring an application requesting for disclosure of such evidence. The Respondents are of the opinion that should the Applicants be privy to the information in the Supporting Affidavit deposed to by the Fourth Respondent, the entire investigation will be compromised.

39. In respect of the raised absence of Annexure A, and labelling of Annexure A as Annexure F, it is an error which can be condoned and is not fatal for the validity of the Warrants. The document with the heading "Annexure F" was supposed to be titled "Annexure A". The Applicants clearly understood this, which is the reason why they did not raise any objection at the time they were presented with the Warrants.

40. Furthermore, upon request of the aforementioned annexures, the Applicants were specifically informed of this error or oversight. The articles to be searched for and seized were described with sufficient particularity and the Warrants are reasonably intelligible to both the searcher and the Applicants.

41. The Search Warrants set out the offence which triggered the investigation, namely **theft**. In particular the Warrants state that there is a suspected misappropriation of monies which amounts to theft.

42. The Search and Seizure Warrants are therefore neither vague, nor overboard, as both Warrants comply with the intelligibility principle.

43. In the premises the Respondents submit that the Applicants have failed to make out a proper case for the setting aside of the Search and Seizure Warrants which were authorized in terms of the Criminal Procedure Act and the Cybercrimes Act.

E. DISCUSSION

44. Section 21 of the Criminal Procedure Act provides that, subject to certain provisions, an article referred to in Section 20 shall be seized only by virtue of a Search Warrant issued by a magistrate, if it appears to such magistrate, from information on oath, that there are reasonable grounds for believing that any such article is in the possession or under the control of or upon any person or upon or at any premises within his area of jurisdiction.

45. The Constitutional Court held in this regard as follows:

"Sections 20 and 21 of the Criminal Procedure Act give authority to judicial officers to issue search and seizure Warrants. Secondly, the section requires that the decision to issue a Warrant be made only if the affidavit in support of the application contains the following objective jurisdictional facts :

- (i) The existence of a reasonable suspicion that a crime has been committed; and**
- (ii) The existence of reasonable grounds to believe that objects connected with the offence may be found on the premises or persons intended to be searched.³⁵"**

46. The magistrates were provided with the Fourth Respondent's Affidavit which contained the objective jurisdictional facts, which is evident from the first pages of the Search and Seizure Warrants. The Search and Seizure Warrants were therefore issued in compliance with the provisions of Sections 20 and 21 of the Criminal Procedure Act.

³⁵ See : *Minister of Safety and Security v Van der Merwe and Others* 2011 (2) SACR 301 (CC) at paras 9 and 10.

47. In the absence of an abuse of power or a gross violation of the Applicants' rights, a Court should be slow to find that a Search Warrant is unlawful on purely technical grounds³⁶.

48. The magistrates acted within the bounds of the authority conferred to them by the Criminal Procedure Act. There was accordingly no abuse of power in issuing the Search and Seizure Warrants.

49. The Respondents have demonstrated that Annexure A was erroneously labelled Annexure F. It is clear that Annexure F sets out the articles to be searched for and seized. The object of the search was clear.

50. The Search and Seizure Warrants were not vague in that they made specific reference to what offences were being investigated. The Search Warrants specifically state that the offences being investigated is the suspected misappropriation of monies, amounting to **theft**. The nature of the offence is therefore clearly identified and the Warrants therefore meet the objective test of reasonable intelligibility.

51. It is evident that the Respondents did not embark on a general ransacking of the Applicants' premises, as the Respondents gathered evidence relating to the suspected offences under investigation. The articles were searched for and seized in terms of the Search and Seizure Warrants.

52. The Respondents were executing valid Search and Seizure Warrants and therefore had the requisite authority to search for and seize the articles as set out in the annexures to the Search Warrants.

³⁶ See : *Pretoria Portland Cement Co. Ltd and Another v Competition Commission and Others* 2003 (2) SA 385 (SCA) at paras 71 and 73.

53. The same principles applies for the Search Warrants which were issued in terms of the Cybercrimes Act. Section 1 of the Cybercrimes Act defines "article" as data, computer program; data storage medium; or computer system.

54. All the articles listed in Annexure F to the Search Warrants issued in terms of Section 29(1) of the Cybercrimes Act are articles as defined in Section 1 of the Cybercrimes Act. The Applicants' contention that the Cybercrimes Act does not apply to physical items is therefore misconceived and ill-founded.

55. The terms of the Search Warrants issued in terms of the Cybercrimes Act were not too general or vague. The Search Warrants are intelligible to both the searcher and the searched person³⁷.

56. Section 12 of the Cybercrimes Act provides that the common law offence of theft must be interpreted so as to not exclude the theft of incorporeal property.

57. This Court is therefore satisfied that the objective jurisdictional facts were present and that the Warrants comply with the statutory requirements provided for and envisaged in the Criminal Procedure Act and the Cybercrimes Act.

58. The terms of the Warrants were clear and not vague, as submitted by the Applicants. The articles to be searched and seized were specified with sufficient particularity in the annexures attached to the Warrants.

59. The Warrants are reasonable intelligible to both the searcher and the searched person. The offence of **theft**, which triggered the criminal investigation, was sufficiently set out in the Warrants.

60. The magistrates who issued the Warrants had authority to do so in accordance with the provisions of the Criminal Procedure Act and the Cybercrimes Act. The

³⁷ See : *Minister of Safety and Security v Van der Merwe*, *supra*, at para 11.

magistrates, furthermore, satisfied themselves that the Affidavit deposed to by the Fourth Respondent contained sufficient information on the existence of the jurisdictional facts.

61. The Search and Seizure Warrants and therefore not tainted by any irregularity.

The Search and Seizure Warrants were therefore lawfully issued and lawfully executed.

F. CONCLUSION

62. The Applicants have therefore not satisfied the onus of proof in relation to the relief they apply for.

63. This Court cannot come to the Applicants' assistance as it is evident that the Search and Seizure Warrants were lawfully obtained and lawfully executed by the Respondents.

64. Sufficient evidence was adduced by the Fourth Respondent in her Affidavit in support of the Warrants so as to establish a *prima facie* case of theft against the Applicants.

65. The costs of this application should follow the result.

In the premises an order in the following terms is made:

1. Condonation is granted to the Respondents for the late filing of their Answering Affidavit;

2. The point *in limine* raised by the Respondents in respect of the non-joinder of the magistrates is dismissed with costs, on the scale as between party and party [Scale B]; and

3. The application is dismissed with costs, on the scale as between party and party [Scale B].

**FW BOTES
ACTING JUDGE OF THE HIGH COURT
OF SOUTH AFRICA**