

THE REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

Case Number: 2026-025277

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED
12 June 2026	
DATE	SIGNATURE

In the matter between:

DIMITRI CAVALEROS

First Applicant

VANA MAGDALENA CAVALEROS

Second Applicant

and

THE MINISTER OF POLICE

First Respondent

**THE NATIONAL COMMISSIONER OF THE
SOUTH AFRICAN POLICE SERVICE**

Second Respondent

MAJOR GENERAL KHUMALO

Third Respondent

BRIGADIER GOPANE

Fourth Respondent

WARRANT OFFICER MOEKETSI RAMAKATSA

Fifth Respondent

Delivered: *This judgment was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the parties' legal representatives by email and by uploading it to the electronic file of this matter*

on CaseLines. The date and time for hand-down is deemed to be 14h00 on 12 June 2026.

Flynote: Police — *Unlawful conduct — Investigation of crime — Powers of police in obtaining a warning statement from a suspect — Criminal Procedure Act 51 of 1977, sections 26 and 27 — Police entering private residential premises without a warrant or consent to obtain a warning statement — No prior audible demand for admission or notification of purpose made — Conduct held to be unlawful and a severe infringement of the constitutional right to privacy under section 14 of the Constitution of the Republic of South Africa, 1996*

JUDGMENT

PG LOUW, AJ

Introduction

- [1] This matter concerns unlawful conduct of members of the South African Police Service (“SAPS”) and the violation of fundamental rights in the course of a police investigation. Central to the determination of this matter is the extent of the powers of the members of the SAPS in obtaining a warning statement.
- [2] The matter came before me in the urgent court on 25 February 2026. The applicants sought injunctive relief against the respondents on an urgent basis. The matter was argued on 25 February 2026. I reserved judgment. On 13 March 2026, the parties submitted supplementary heads of argument upon my request. The supplementary heads of argument on behalf of the respondents only came to my attention on 16 March 2026. I granted the following order on 17 March 2026:

“1. The matter is urgent and the forms, service and time periods provided for in the Uniform Rules of Court are dispensed with in terms of Rule 6(12).

2. The fifth respondent is interdicted and restrained from harassing and/or intimidating the first and/or second applicants and the immediate family of

the applicants, in any manner whatsoever, whether at the applicants' private residence or elsewhere.

3. The South African Police Service in the Gauteng area, acting under the direction and control of the first to fifth respondents, is interdicted and restrained from harassing and/or intimidating the first and/or second applicants and the immediate family of the applicants, in any manner whatsoever, whether at the applicants' private residence or elsewhere.

4. The first to fifth respondents are directed to take all reasonable steps within their power to prevent any member of the South African Police Service in the Gauteng area from harassing and/or intimidating the first and/or second applicants and the immediate family of the applicants, in any manner whatsoever, whether at the applicants' private residence or elsewhere.

5. To the extent that the fifth respondent continues with the investigation under Sandringham CAS 222/9/2025, the fifth respondent is directed to do so in a manner that is lawful, reasonable and objective, and cognisant of the applicants' constitutional rights, including that the fifth respondent is directed:

5.1 To provide the applicants through their legal representative with a clear written explanation of any and all complaints and allegations against them which are under investigation, with sufficient particularity to enable the applicants, if so advised, to provide the warning statements required by the fifth respondent, if any, within a reasonable period and to allow the applicants to prepare warning statements, if any, in the presence of their legal representative and in circumstances where such statements are made freely, voluntarily and without undue coercion or intimidation.

6. The costs of this application shall be paid by the respondents, jointly and severally, the one paying the other to be absolved, on Scale C."

[3] My reasons for granting the order are set out in this judgment.

The facts

[4] The first applicant, which I will refer to for the sake of convenience as “Dimitri Cavaleros”, is a businessman and the son of the second applicant, who are for the sake of convenience referred to herein as “Vana Cavaleros”. She is an 83-year-old widow. Vana Cavaleros is also the mother of Dimitri Cavaleros’ brother, who I refer to herein for the sake of convenience as “Pero Cavaleros”.

[5] The first respondent is the Minister of Police, cited in his official capacity as the Minister responsible for the Department of Police which Department is responsible for law-enforcement services and oversees the execution of duties by the SAPS.

[6] The second respondent is the National Commissioner of the SAPS, cited in his official capacity as the official responsible for the day-to-day management of the SAPS, including personnel within the police force and ensuring an efficient, honest and lawful police force.

[7] The third respondent is Major General Khumalo, cited in his official capacity as the official responsible for the conduct of the Gauteng SAPS Organised Crime Department, of which the fifth respondent is part.

[8] The fourth respondent is Brigadier Gopane, cited in her capacity as the unit commander of the Provincial Organised Crime Unit in Gauteng.

[9] The fifth respondent is Warrant Officer Moeketsi Ramakatsa, referred to herein for the sake convenience as “Warrant Officer Ramakatsa”, a member of the SAPS and part of the Provincial Organised Crime Unit in Gauteng.

[10] The first to fourth respondents are cited in their official capacities on account of them having jurisdiction and control over Warrant Officer Ramakatsa and his team in the Johannesburg area and/or are the responsible officials in whose area of jurisdiction the alleged harassment and intimidation occurred and/or on account of their joint responsibility for those persons acting within their

departments to exercise their duties lawfully and in accordance with the Constitution of the Republic of South Africa 1996 (“the Constitution”).

[11] Pero Cavaleros laid a complaint against the applicants with the SAPS. The exact nature of the complaint was not known to the applicants until disclosed in the respondents’ answering affidavit deposed to on 17 February 2026, from which it appears that Pero Cavaleros laid complaint against during April 2025.

[12] The complaint is premised on an allegation that “theft alternatively defrauding of GBP 500 000.00 (five hundred thousand Great British Pound) from the Dirona Family Trust have been perpetrated by the Applicants”. It is further alleged in the answering affidavit that, according to Pero Cavaleros he was entitled to this amount due to an agreement and that the applicants, through their legal representatives,

“had unlawfully and intentionally made misrepresentations which caused prejudice to [Pero Cavaleros] alternatively; utilising their legal representatives unlawfully and intentional [sic] had obtained corporeal property belonging to [Pero Cavaleros] with or without the consent of [Pero Cavaleros], and if with the consent of [Pero Cavaleros], such consent being given as a result of a misrepresentation by either [the applicants] or their legal representatives, and appropriated the corporeal property; alternatively [h]ad unlawfully and intentionally appropriated moveable, corporeal property belonging to [Pero Cavaleros]”.

[13] Pero Cavaleros and the applicants are engaged in civil litigation in the form of an action instituted by Pero Cavaleros in August 2025 in this court under case number 2025-127781 (“the 2025 action”). In the 2025 action, Pero Cavaleros claims payment of GPB 500,000 from Vana Cavaleros. This allegation is denied by the respondents on the basis that they have no knowledge thereof. However, the respondents allege that Pero Cavaleros is “involved [in] a protracted family dispute concerning various family legal disputes between [Pero Cavaleros] and the Applicants that have been ongoing for many years”.

[14] The applicants rely on *inter alia* three separate events in support of their case.

- [15] The applicants allege that on 2 September 2025, three white vehicles bearing no markings of the SAPS arrived at the private residential complex where Vana Cavaleros resides. They say that the driver of the first vehicle approached the security guard at the gate and insisted that the security guard allow him access to the complex. The driver introduced himself as a police officer (a member of the SAPS) and stated that he wished to urgently speak to Vana Cavaleros, who was said to be a “suspect in a criminal investigation involving money laundering”. The security guard (who has asked to remain anonymous as she fears retaliation if she is identified) informed the member of the SAPS that Vana Cavaleros was not at home. The member of the SAPS left a note, which recorded his name and mobile number. The note also recorded “G.P.S. ... ENQUIRY 2/03/2025 SST RAMAKATSA”. The member of the SAPS was Warrant Officer Ramakatsa.
- [16] Vana Cavaleros immediately instructed her attorney (“Mr Small-Smith”). Mr Small-Smith, who knows Warrant Officer Ramakatsa, called the latter on the same day. According to the applicants, Warrant Officer Ramakatsa told Mr Small-Smith *inter alia* that he would prepare questions and forward them to Mr Small-Smith to discuss with Vana Cavaleros.
- [17] Warrant officer Ramakatsa confirms that he went to Vana Cavaleros’ residential address on 2 September 2025 to obtain a waring statement but was informed that Vana Cavaleros was not at her residence and he left a written note with the security guard informing Vana Cavaleros to contact him.
- [18] The second incident occurred on 20 January 2026, when Warrant Officer Ramakatsa again went to Vana Cavaleros’ house unannounced. Vana was not home, and Warrant Officer Ramakatsa left a note with her house-keeper for her to call him. The note stated, “SANDRINGHAM CAS ... THEFT WARRANT OFFICER RAMAKATSA [with his cell number] LOOKING FOR STATEMENT ON THIS CASE.” According to the applicants, Warrant Officer Ramakatsa told the house-keeper that next time Warrant Officer Ramakatsa came to the house, it would be “with force”. The house-keeper confirmed this under oath. On the same day Mr Small-Smith phoned Warrant Officer Ramakatsa after Vana Cavaleros informed Mr Small-Smith of this visit. Warrant Officer Ramakatsa

said that he had gone to Vana Cavaleros' home because he needed to take a statement from both the applicants.

- [19] In the answering affidavit, the respondents failed to deal with the allegation that the next time Warrant Officer Ramakatsa came to Vana Cavaleros' house, it would be "with force", save for baldly denying the allegation and stating that they have no knowledge thereof.
- [20] Mr Small-Smith met with Warrant Officer Ramakatsa on 22 January 2026 and *inter alia* advised the latter that he also represented Dimitri Cavaleros. This allegation is not dealt with in the answering affidavit, save for a bare denial.
- [21] The third incident relied upon by the applicants occurred on 27 January 2026. The applicants' version of what transpired on this day is set out as follows in the founding affidavit:

"71 Despite Mr Small-Smith's meeting with Warrant Officer Ramakatsa where he reiterated that Vana and I are represented by him (and happy to cooperate in the preparation of a warning statement), a few days later, on 27 January 2026, at about 15h00, three vehicles arrived at my residence whilst my wife and I were at home. The first was unmarked and driven by a person in civilian clothes, accompanied by another man in civilian clothing. The second and third vehicles were police vehicles, each containing at least two policemen, two of which appeared to be in tactical gear. I subsequently learnt that the person in the first vehicle was Warrant Officer Ramakatsa.

72 I stay in a gated neighbourhood. My house is at the end of a long and deep panhandle, which panhandle is shared with one of my immediate neighbours. The panhandle is owned by this neighbour. If one were to arrive at the street gate to the panhandle, there would be no way of knowing where my house is in relation to that gate. Somehow, however, the police knew precisely which was my house and proceeded to access it by jumping over one of my other neighbour's walls, before jumping back again into the panhandle. From the panhandle, they accessed my property by climbing over another gate at the border of my

property. Once access had been gained (unlawfully) to my property, instead of simply knocking on the front door, the policemen proceeded to the side of the house, after pushing through yet another gate. They then proceeded to bang on windows and outside doors (some of which were glass) as they circled the house. There was also an open window, which they also attempted to access and, in so doing, messed up the wooden blinds in an attempt to open the lower, more accessible window from the inside (which they managed to do). As described, during the course of this raid, the policemen trespassed on three properties.

73 This was observed on security cameras and heard by my wife and me. We were concerned that these persons were not there on legitimate police business. Their conduct, together with the fact that Mr Small-Smith had specifically advised Vana and I during our consultation with Webber Wentzel that the police had no right to unlawfully force their way into our premises, made me fearful of a confrontation with tactically armed (and seemingly, aggressive) police officers. Further, Mr Small-Smith had advised that we could not be forced to make a warning statement without legal representation. This knowledge, combined with the fact that Warrant Officer Ramakatsa had previously agreed with Mr Small-Smith to liaise with us through our legal representatives, led me to be fearful about the true motive of this raid on my personal residence.

74 My wife and I were confused and terrified. When we noticed men climbing over the walls and gates, we thought it best to hide.

75 Whilst we were hiding, my wife then got a call from an unknown number on her mobile phone. We later discovered that this was Warrant Officer Ramakatsa. We do not know how he obtained her mobile number, and I consider this attempt to contact her – in circumstances where she is not alleged to have been implicated in my complaint – to be a further act of intimidation.

76 We feared the uncertainty of what these men may do to us. Despite two of the vehicles being police vehicles (which I could see from the cameras), these men were not acting in a calm rational manner that I would expect of policemen who were lawfully executing their duties. I was

extremely fearful that based on their aggressive behaviour they would force us to go with them and unlawfully detain us and, even worse, physically harm us. This was especially so considering that my wife was with me.

77 The conduct of Warrant Officer Ramakatsa and his cohorts, as described in this affidavit, have instilled an ongoing fear in me, my wife and my mother that another 'raid' or other acts of intimidation is imminent.

78 We contacted Mr Small-Smith as soon as we could to tell him what was happening at our home. He immediately put through a call to Warrant Officer Ramakatsa, who did not answer. Mr Small-Smith then made a call to a mutual acquaintance of Warrant Officer Ramakatsa, and through this intervention, he was able to get through to Warrant Officer Ramakatsa. I cannot be certain, but this appeared to cause the raid to be called off. We remained hidden for some time thereafter until we were certain that everyone had permanently left the property."

[22] The respondents' recordal of the events on 27 January 2026 is the following:

"45.1.17 Warrant Officer Ramakatsa went to the residential address of the First Applicant, situated at ... The First Applicant was seen to be present in the home.

45.1.18 On arrival at the gate of the residence, access was denied by the First Respondent, in that refused (sic) to allow access to Warrant Officer Ramakatsa and members of the SAPS who accompanied him.

45.1.19 Warrant Officer Ramakatsa then received a telephone call from Mr. Ian Smith, whereby he was informed that he was 'harassing' the First Applicant, and that he must 'stop'.

45.1.20 Warrant Officer Ramakatsa then communicated WhatsApp to Mr. Ian Smith enquiring on the status of the warning statements from the Applicant (a copy of which is hereto attached as annexure 'SH-45'). The communication stated the following:

‘Mr Smith...How are you doing ... checking how far with the statements’ ”;

and further:

“80 Save to admit 28 January 2026 at the residential address of the First Applicant, in an attempt to obtain a warning statement from the First Applicant, the Fifth Respondent went to the residence of the First Applicant and was later denied entry to the property nor able to obtain the warning statement from the First Applicant, the Respondents have no knowledge (sic) the allegations contained herein and are therefore accordingly denied.”¹ [My underlining.]

[23] The following day, on 28 January 2026, Mr Small-Smith addressed a letter to Major General Denise Beukes, Head of Legal Support & Resources, Legal Services of the SAPS (“Head of Legal Services”) wherein he set out the applicants’ version of events and requested a written undertaking to be provided that Warrant Officer Ramakatsa and/or other members of the SAPS would not attend at the applicants’ residences and would not approach the applicants at any other location until the applicants have been provided with a summary of the complaint and list of questions for them to respond to. The written undertaking was sought by no later than 30 January 2026, failing which the applicants would approach this court for appropriate urgent relief. The respondents baldly deny this allegation in the answering affidavit.

[24] On 30 January 2026, Mr Small-Smith was copied in email correspondence from the Head of Legal Services to Major General Hendricks and Major General Peters stating that she had referred the complaint to the office of Major General Khumalo (the third respondent) but understood he was on leave.

¹ The reference to 28 January 2026 is a reference to the incident that took place on 27 January 2026 according to the applicants. Nothing turns on this. The parties agree that the incident occurred.

[25] On 2 February 2026, Mr Small-Smith sent Warrant Officer Ramakatsa a WhatsApp asking him to:

“[P]lease assist so that we do not have to launch an application. Firstly just help me understand if the allegations that I have put in my first message to you is accurate? And secondly just promise that you will not harass or go to my clients’ houses for a period of two weeks so that could we could prepare warning statements”.

[26] Warrant Officer Ramakatsa responded by stating that the “rule of warning statement it has to be completed by a police officer if the suspect has a legal [representative] whom he wanted to be present during the completion of his statement, it is the suspect rights and any further explanation can be attached as annexures to the statement.”

[27] When Mr Small-Smith sought to obtain clarity about the allegation, Warrant Officer Ramakatsa did not respond. No undertaking was given as requested by Mr Small-Smith. Similarly, these allegations are met with a bald denial by the respondents in their answering affidavit.

[28] The application was launched three days later on 5 February 2026.

The Law

[29] The requirements to obtain a final interdict are trite. The applicant must show a clear right, an injury actually committed or reasonably apprehended, and the lack of an adequate alternative remedy.²

[30] In *Residents*,³ the Constitutional Court held that a case had been made out for a final interdict restraining certain officials where they had been conducting riots and searches without any legal authorisation to do so, from unlawfully interfering with the applicants and their homes, except on the authority of an

² *Masstores (Pty) Ltd v Pick n Pay Retailers (Pty) Ltd* 2017 (1) SA 613 (CC) at para 8, with reference to the established test set out in *Setlogolo v Setlogolo* 1914 AD 221 at 227.

³ *Residents, Industry House v Minister of Police* 2023 (3) SA 329 (CC).

order of court or a warrant granted in terms of any applicable law or in terms of section 22 of the Criminal Procedure Act 51 of 1977 (“CPA”).⁴

[31] Relevant for current purposes are section 25, section 26 and section 27 of the CPA.

[32] Section 25 of the CPA provides as follows:

“(1) If it appears to a magistrate or justice from information on oath that there are reasonable grounds for believing-

- (a) that the internal security of the Republic or the maintenance of law and order is likely to be endangered by or in consequence of any meeting which is being held or is to be held in or upon any premises within his area of jurisdiction; or
- (b) that an offence has been or is being or is likely to be committed or that preparations or arrangements for the commission of any offence are being or are likely to be made in or upon any premises within his area of jurisdiction,

he may issue a warrant authorizing a police official to enter the premises in question at any reasonable time for the purpose-

- (i) of carrying out such investigations and of taking such steps as such police official may consider necessary for the preservation of the internal security of the Republic or for the maintenance of law and order or for the prevention of any offence;
- (ii) of searching the premises or any person in or upon the premises for any article referred to in section 20 which such police official on reasonable grounds suspects to be in or upon or at the premises or upon such person; and
- (iii) of seizing any such article.

(1A) ...

(2) ...

(3) A police official may without warrant act under subparagraphs (i), (ii) and (iii) of subsection (1) if he on reasonable grounds believes-

- (a) that a warrant will be issued to him under paragraph (a) or (b) of subsection (1) if he applies for such warrant; and

⁴ *Residents* at para 88.

(b) that the delay in obtaining such warrant would defeat the object thereof." [My underlining.]

[33] Section 26 of the CPA deals with entering of premises for purposes of obtaining evidence. It provides that:

"Where a police official in an investigation of an offence or alleged offence reasonably suspects that a person who may furnish information with reference to any such offence is on any premises, such police official may without warrant enter such premises for the purpose of interrogating such person and obtaining a statement from him: Provided that such police official shall not enter any private dwelling without the consent of the occupier thereof". [My underlining.]

[34] Section 27 of the CPA deals with resistance against entry and search. It provides that:

"(1) A police official who may lawfully search any person or any premises or who may enter any premises under s 26, may use such force as may be reasonably necessary to overcome any resistance against such search or against entry of the premises, including the breaking of any door, or window of such premises: Provided that such a police official shall first audibly demand admission to the premises and notify the purpose for which he seeks to enter such premises.

(2) The proviso to subsection (1) shall not apply where the police official concerned is on reasonable grounds of the opinion that any article which is the subject of the search may be destroyed or disposed of if the provisions of the proviso are first complied with." [My underlining.]

[35] Section 205(3) of the Constitution provides that the objects of the SAPS are to prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law. In *Monareng*,⁵ Opperman J stated with reference to *Botha and*

⁵ *Monareng v Minister of Police* 2025 (2) SACR 499 (FB) at para 6.

Visser,⁶ that “[t]his is no easy task, as South Africa boasts with some of the gravest crime statistics in the world”.

- [36] In carrying out their duty to investigate acts of criminality, members of the SAPS are called to perform their duty with due regard to their powers, duties and functions. They must act in a manner that is reasonable. Where SAPS members are required to use force, such force must be the minimum force which is reasonable in the circumstances.⁷

The warning statement

- [37] The respondents explained that a warning statement is a document utilised by the SAPS in a specified form (SAPS 3M(m): Statement Regarding Interviews with Suspects) to firstly advise a suspect of their rights in terms of section 35 of the Constitution, and secondly, to provide suspects with an opportunity to record their version of events in respect of the alleged crime they are suspected to have perpetrated, in a manner that gives “their side of the story” to the investigation officer, in a formal document. A warning statement is an important document in the investigation of crimes, which document may only be composed by a member of the SAPS, primarily through the investigation officer.
- [38] The respondents contend that no other unofficial form or manner ought to be utilised by members of the SAPS in the compiling of warning statements because this may impact the fairness of any proceeding trial in the criminal court.
- [39] A warning statement is obtained during the initial interviews of suspects, and concentrates on “the all-important question of the constitutional rights and of the fact that allegations are made at that stage against a suspect”.⁸ A suspect is given a chance to respond to the complaints against him or her, so that such response can be included in the docket that is presented to a prosecutor for a decision on the complaints. Included in the constitutional rights about which the

⁶ R Botha and J Visser ‘Forceful arrests: an overview of section 49 of the Criminal Procedure Act 51 of 1977 and its recent amendments’ (2012) *PER* 26 at para 1.

⁷ Section 13 of the South African Police Service Act, 68 of 1995.

⁸ *S v Zimele* (CC16/2020) [2022] ZAECMHC 55 (24 March 2022) at para 20.

suspect is “warned” is the right to remain silent, to not self-incriminate, and to legal representation.⁹ A suspect can choose whether or not to give a warning statement – that choice cannot be forced on him or her, but it “goes without saying that an election cannot be a choice unless it is made with proper appreciation of what it entails. It is particularly important in this country to remember that an uninformed choice is indeed no choice”.¹⁰

The injunctive relief

[40] I have set out the three main incidents upon which the applicants place reliance for the relief sought. I turn to deal with the requirements of the injunctive relief sought by the applicants.

[41] A person’s home is a person’s “inner sanctum, central to their right to privacy”.¹¹ A home is supposed to be “a place of comfort, safety and the keystone of a functional society”.¹² Raiding a person’s home is a “substantial interference by the state in one’s private life”.¹³ The applicants contend that raiding a person’s home constitutes an infringement of the right to privacy in terms of section 14 of the Constitution.

[42] In *Mistry*,¹⁴ the Constitutional Court held that:

“The existence of safeguards to regulate the way in which State officials may enter the private domains of ordinary citizens is one of the features that distinguishes a constitutional democracy from a police state.”

[43] A typical safeguard is a warrant. Warrants guarantee that the state has, prior to an intrusion, justified such intrusion before a judicial officer.¹⁵

⁹ See *S v Majola* (98/2013) [2014] ZAGPJHC 421 (30 October 2014) which summarised the SAPS 3M(m) Form at para 7.

¹⁰ *S v Thebus* 2003 (6) SA 505 SA (CC), concurring judgment at para 87.

¹¹ *Residents, Industry House v Minister of Police* 2023 (3) SA 329 (CC) at para 49.

¹² *Residents* at para 1.

¹³ *Residents* at para 49.

¹⁴ *Mistry v Interim Medical and Dental Council of South Africa* 1998 (4) SA 1127 (CC) at para 25; *Minister of Police and Others v Kunjana* 2016 (2) SACR 473 (CC) at para 18.

¹⁵ *Residents* at para 57.

- [44] It is not the respondents' case that Warrant Officer Ramakatsa and his team had a warrant when they raided Dimitri Cavaleros' home on 27 January 2026. The applicants contend that, whilst section 26 and section 27 of the CPA, respectively, provide for the entering of premises for the purposes of an investigation without a warrant, under certain circumstances, no such circumstances were present in this matter. Firstly, neither Dimitri Cavaleros nor his wife consented to the SAPS entering their private dwelling. Secondly, there is no evidence that Warrant Officer Ramakatsa or any member of his team first audibly demanded admission to the premises and notified the purpose for which they sought to enter the premises.
- [45] Thirdly, the purpose of Warrant Officer Ramakatsa and his team's raid on Dimitri Cavaleros' home on 27 January 2026 was, on the respondents' version, to obtain a warning statement. The raid was therefore also not justified under section 25 of the CPA which provides that a police officer can enter without a warrant if such officer has reasonable grounds to believe that a warrant will be issued but that delay would defeat the object of obtaining the warrant.
- [46] The applicants contend that they have a clear right, *inter alia*, not to be subjected to intimidatory or unlawful conduct by members of the SAPS, to not have their right to privacy infringed by unlawful entry to their residential premises, and to have any criminal investigation into them conducted in a lawful, rational and procedurally fair manner, free of ulterior motives or abuse of power.
- [47] The applicants state that they have suffered harm as a result of the unlawful conduct of Warrant Officer Ramakatsa, including an unjustified infringement of Dimitri Cavaleros' right to privacy in terms of section 14 of the Constitution, and hold a reasonable apprehension that this unlawful conduct will continue and escalate unless the court intervenes. Dimitri Cavaleros has been left traumatised by the unlawful raid on his home and is fearful that Warrant Officer Ramakatsa will act unlawfully again. The surprise visits to Vana Cavaleros traumatised her and embarrassed her in front of her neighbours and staff. Vana Cavaleros is terrified that members of the SAPS will return and illegally detain

her or force her to go away with them. This fear is strengthened by Warrant Officer Ramakatsa's threat that next time he would be "with force". The applicants requested an undertaking from the SAPS that the intimidatory conduct will cease, without success.

[48] According to the applicants they therefore had no choice but to approach this court to urgently interdict the continuing unlawful conduct. In this regard, the applicants also rely on *Residents*.¹⁶

[49] Insofar as the mandatory injunctive relief sought by the applicants is concerned, they contend that they are entitled to the following procedural safeguards, as suspects in a criminal investigation, namely:

- a. To have their request for legal representation respected and not bypassed or undermined.
- b. To be informed of the complaints against them with sufficient clarity and particularity before being required to provide a warning statement.
- c. Generally, for the investigation to be conducted in a manner that is lawful, reasonable and fair.

[50] The applicants contend further that Warrant Officer Ramakatsa's conduct in arriving at the homes of the applicants for the purpose of obtaining warning statements in the absence of Mr Small-Smith directly undermined the applicants' right to legal representation. They reasonably apprehend that this will happen again, unless this court grants an order that any warning statement is to be given in the presence of the applicants' legal representative.

[51] The applicants contend that part of the right to a fair trial in terms of section 35 of the Constitution is for an accused to be informed of a charge against him or her with sufficient detail to answer it.¹⁷

[52] The applicants say that they have been seeking particularity of the complaints for purposes of the warning statement for a number of months and that none of

¹⁶ *Residents* at para 86.

¹⁷ *S v Molimi* 2008 (3) SA 608 (CC) at para 54.

these requests have been responded to. Instead, the applicants have been left with confusing, contrary and second-hand versions of the complaints concerned “money laundering”, “theft” or “fraud”. The respondents have for the first time in the answering affidavit set out the alleged complaints which concern alleged theft, alternatively fraud, by the applicants of GBP 500,000 from the Dirona Trust, an offshore independently-run trust, alternatively misrepresentations by the applicants that prejudiced Pero Cavaleros or induced him to consent to the applicants’ appropriation of Pero Cavaleros’ property, alternatively direct misappropriation of Pero Cavaleros’ property.

- [53] According to the applicants, this description of the complaints remains highly confusing, vague and contradictory.
- [54] The applicants contend that the respondents have advanced no basis for the court to refuse the relief sought, namely that Warrant Officer Ramakatsa is to provide the applicants or their legal representative with a clear explanation of any and all complaints against them which are under investigation, with sufficient particularity to enable the applicants to provide the warning statement to Warrant Officer Ramakatsa.
- [55] The applicants contend further that Warrant Officer Ramakatsa is making use of his investigating powers not for the purpose of actually advancing the investigation, but to intimidate and harass the applicants. In this regard the applicants rely on the following conduct of Warrant Officer Ramakatsa, which is not seriously disputed in the answering affidavit:
- a. Arriving at Vana Cavaleros’ home for a warning statement even before a CAS docket has been opened and even before the enquiry had been transferred to Warrant Officer Ramakatsa’s unit or he had been ordered to investigate the enquiry.
 - b. Arriving at Vana Cavaleros’, an 83-year-old, home in three vehicles, with at least three armed men.
 - c. Ignoring the requests to provide particularity about the complaints.
 - d. Further unannounced visits to Vana Cavaleros, despite the arrangement with her legal representative, and threatening to return with force.

- e. Failing to respond to Mr Small-Smith's attempts to summarise the complaints.
- f. Arriving at Dimitri Cavaleros' home with six armed men in tactical gear, scaling walls and gates and banging on doors and windows.
- g. Failing to agree to cease any unlawful conduct upon requests by Mr Small-Smith in this regard.

[56] The applicants simply seek for the investigation to be run properly, fairly, without an improper purpose or ulterior motive, and with due regard to the applicants' rights, including to legal representation.

The respondents' case

[57] The respondents contend that the application is not urgent, alternatively that any urgency is self-created, and that the applicants have not established the absence of substantial redress in the ordinary course.

[58] The respondents further contend that the application constitutes an abuse of process and that the applicants:

“have acted in a manner that is severally (sic) prejudicial to Warrant Officer Ramakatsa in hindering his role and duties as the investigating officer. Since the lodging of this application, all efforts to ascertain a warning statement from the Applicants have halted, as well as further information gathering in respect of the complaint laid by [Pero Cavaleros]”.

[59] The respondents also state that the applicants and Mr Small-Smith have used “resisting and delaying tactics in their refusal to co-operate with Warrant Officer Ramakatsa”.

[60] The conduct of Warrant Officer Ramakatsa and the other members of the SAPS is said to have been done in accordance with section 205(3) of the Constitution read with section 13 of the South African Police Service Act 68 of 1995 (“SAPS

Act”) and “in attempting to obtain a warning statement from each Applicant in respect of the criminal investigations under Cas Number ...”.

[61] The upshot of the respondents’ opposition to the application on the merits is that Warrant Officer Ramakatsa attempted to obtain warning statements from the applicants on various occasions between September 2025 to February 2026 and “on each occasion was met with resistance alternatively refusal by [the applicants] to furnish the warning statements”. The respondents rely on a summary of events as listed in the investigation diary of Warrant Officer Ramakatsa to demonstrate “the difficulties experienced by [Warrant Officer Ramakatsa] in obtaining the warning statements from the Applicants and the obstructive conduct perpetrated by [Mr Small-Smith] in frustrating the criminal investigations”. The diary entries relied upon, are set out as follows:

- a. On 2 September 2025, Warrant Officer Ramakatsa went to the residential address of Vana Cavaleros. Warrant Officer Ramakatsa was informed that Vana Cavaleros was not at her residence and he subsequently left a written note with the security guard for Vana Cavaleros to contact him.
- b. On 24 October 2025, Mr Small-Smith sent a letter to Warrant Officer Ramakatsa’s superior, Brigadier Gobane (the fourth respondent) and Senior Prosecutor Bezuidenhout wherein he confirmed that he is aware that Warrant Officer Ramakatsa is seeking warning statements from the applicants. According to the respondents, no attempt was made to facilitate a time and date to compile the warning statements, but instead Mr Small-Smith “opts to usurp the role and duties of Warrant Officer Ramakatsa as the investigating officer and seek rather to liaise with [Senior Prosecutor Bezuidenhout].”
- c. On 20 November 2025, Mr Small-Smith contacted Warrant Officer Ramakatsa, and informed him that he represented the applicants and sought information contained in the docket. Warrant Officer Ramakatsa informed Mr Small-Smith that he required a warning statement from the applicants and attempted to ascertain a suitable date and time to meet with the applicants and Mr Small-Smith. No date and time was agreed upon.

- d. On 25 December 2025, Senior Prosecutor Bezuidenhout contacted Warrant Officer Ramakatsa and enquired whether he had succeeded in obtaining the warning statements from the applicants. Warrant Officer Ramakatsa informed Senior Prosecutor Bezuidenhout that he was encountering difficulties in obtaining the warning statement as he was being “blocked” by Mr Small-Smith.
- e. On 20 January 2026, Warrant Officer Ramakatsa went to the home of Vana Cavaleros in an attempt to obtain a warning statement from Vana Cavaleros. Warrant Officer Ramakatsa was informed that Vana Cavaleros had gone shopping and received WhatsApp communications from Mr Small-Smith. In this message, Mr Small-Smith states that:

“Hey I see you are still in the habit of going to old ladies houses and leaving notes without calling their lawyers. We are happy to give you a statement but would first like to meet you to understand the allegations. Let me know when you will be able to meet with the old lady and I at my office please. I don’t want to take her to [your] offices if you don’t mind. I have also been informed by the Senior Prosecutor Johannesburg that she has been trying to reach you about this matter ... let me understand if you want to make a normal statement nor a warning statement.”

- f. On 22 January 2026, Mr Small-Smith went to the office of Warrant Officer Ramakatsa without the applicants, accompanied by “bodyguards”. Mr Small-Smith wanted to “check the allegations” against Vana Cavaleros and endeavoured to bring her back to the police station to write down her warning statement within the following two weeks.
- g. On 28 January 2026, Warrant Officer Ramakatsa went to the residential address of Dimitri Cavaleros. I have dealt with Warrant Officer Ramakatsa’s version in this regard above.
- h. On 30 January 2026, Mr Small-Smith sent further correspondence to Major General Beukes. In his email Mr Small-Smith stated that he had received a WhatsApp message from the investigating officer asking him when the

warning statements will be handed to him. Mr Small-Smith stated further that:

“... He has not been informed by his superiors of the communications that has been exchanged in this matter by our office and yours. If he had been notified and consulted by his superior he would have understood that he had to 1st comply with the reasonable request that I had addressed to him last week to confirm allegations.

I have forwarded the communication and will screenshot and share his response.

We have no options but to approach the High Court for the relief in our previous letter. This could have been avoided by the police simply behaving reasonably.”

- i. The application was issued on 5 February 2026 and on 6 February 2026, Warrant Officer Ramakatsa received WhatsApp communication from Mr Small-Smith in this regard. According to Warrant Officer Ramakatsa, the application “sought to prohibit Warrant Officer Ramakatsa from continuing with investigating the crime as stated in the Police Docket under CAS Number ..., and further sought to prohibit Warrant Officer Ramakatsa from duly exercising his role and duties as a member of the SAPS and the investigating officer as prescribed in s 205(3) of the Constitution read with section 13(3) of the [SAPS Act]”.

[62] The respondents contend that it is apparent from the conduct of the applicants and Mr Small-Smith that the applicants “sought to interfere in the investigations” and to “dictate” and “control” the manner and method in which they were to furnish Warrant Officer Ramakatsa with their warning statements.

[63] The respondents state that Warrant Officer Ramakatsa, in seeking to obtain a warning statement from the applicants, was acting in accordance with section 205(3) of the Constitution read with section 13 of the SAPS Act, as well as in

accordance with the South African Police Service Code of Conduct (“SAPS Code of Conduct”).

[64] As of 2 February 2026, Warrant Officer Ramakatsa has been unable to continue with the investigation of the criminal complaint nor continue his role and duties as the investigating officer in the criminal investigations against the applicants. It is stated in the answering affidavit that the applicants “have effectively ‘bullied’ the SAPS from investigating”. According to the respondents, since the lodging of the application, “all efforts to ascertain a warning statement from the Applicants have halted, as well as further information gathering in respect of the complaint laid by [Pero Cavaleros]”.

[65] Insofar as the requirements for a final interdict is concerned, the high watermark of the respondents’ case is the following:

- a. The applicants complain of “embarrassment” and “discomfort” in being investigated. This cannot be construed as a violation of their constitutional rights to dignity, freedom and not to be treated or punished in a cruel and inhumane or degrading manner. They state further that “any discomfort experienced by the Applicant (sic) stems from the discourse within the family which discourse cannot be laid at the feet of Warrant Officer Ramakatsa”. The respondents therefore contend that they have not established a clear right.
- b. Warrant Officer Ramakatsa’s conduct in carrying out his role and duties as an investigating officer, in an attempt to obtain a warning statement, cannot be construed as constituting “injury” for the purposes of a final interdict. The investigation is at a “Information Gathering Stage. ... This information and evidence is required to provide all necessary information to the public prosecutor to determine whether the Applicants will be prosecuted in the criminal courts”.
- c. The applicants have an alternative remedy in that they can simply provide Warrant Officer Ramakatsa with their warning statements. In addition, the applicants complain that they have been harassed and intimidated by Warrant Officer Ramakatsa, however they failed to seek a protection order

in terms of the Protection from Harassment Act 17 of 2011 (“Harassment Act”).

- [66] According to the respondents, the purpose of the application is not to interdict Warrant Officer Ramakatsa from perpetrating any alleged harassment or intimidation, but to “actually interfere with the investigation into the alleged theft and fraud ...”.

Analysis

- [67] Warrant Officer Ramakatsa was involved in two visits to each of the applicant’s homes in quick succession at the end of January 2026. On the first occasion, on 20 January 2026, Warrant Officer Ramakatsa threatened Vana Cavaleros’ housekeeper that the next visit would be “with force”. As I have stated above the respondents failed to deal with this allegation in the answering affidavit.
- [68] On the second occasion, on 27 January 2026, Warrant Officer Ramakatsa arrived at Dimitri Cavaleros’ home, together with other members of the SAPS in three vehicles. After climbing over one of Dimitri Cavaleros’ neighbour’s walls and over another gate at the border of Dimitri Cavaleros’ property to gain access to Dimitri Cavaleros’ property, the members of the SAPS circled Dimitri Cavaleros’ house and banged on windows and outside doors. The applicants set out in great detail in the founding affidavit what transpired on this occasion. Dimitri Cavaleros and his wife were “terrified”. When they noticed men climbing over the walls and gates, they thought it best to hide. Dimitri Cavaleros was “extremely fearful” based on the “aggressive behaviour” of the members of the SAPS.
- [69] These serious allegations are dealt with scantily by the respondents in the answering affidavit. The high watermark of the respondents’ version regarding what occurred on this occasion is that in an attempt to obtain a warning statement from Dimitri Cavaleros, Warrant Officer Ramakatsa and other members of the SAPS who accompanied him, were refused access by Dimitri Cavaleros. No particulars are provided regarding, for instance, how, if at all,

Warrant Officer Ramakatsa announced the reason for his visit to Dimitri Cavaleros' residence; what exactly was communicated to Dimitri Cavaleros by Warrant Officer Ramakatsa in this regard (if anything); and, significantly, the respondents proffer no version in respect of the serious allegations of having trespassed on different properties in order to gain access to Dimitri Cavaleros' residence and their apparent intimidatory and harassing conduct at Dimitri Cavaleros' residence.

[70] The escalating conduct, coupled with the refusal of the respondents to provide any undertaking that it would cease, in my view, warranted the applicants approaching this court on an urgent basis.

[71] In my view, there is no merit in the contention that the urgency was self-created. The last incident occurred on 27 January 2026. The next day, Mr Small-Smith had written to the SAPS legal department and Warrant Officer Ramakatsa's superiors seeking an undertaking that the harassment would cease, with a deadline of 30 January 2026. No undertaking was provided by the deadline. On 2 February 2026, Mr Small-Smith made a final attempt to obtain an undertaking directly from Warrant Officer Ramakatsa. This, too, failed.¹⁸ The application was launched three days later, on 5 February 2026.

[72] I am also not convinced that an application in the ordinary course will afford the applicants substantial redress.¹⁹ There is force in the submission made on behalf of the applicants that where a police officer is acting outside the bounds of his lawful duties, abusing his powers in a manner that causes fear and infringes upon constitutional rights, such conduct must be stopped as quickly as possible. Waiting months for a hearing in the ordinary course, during which such conduct may intensify, does not provide substantial redress.

[73] In the answering affidavit, the respondents allege that, since the launch of the application, all efforts to obtain a warning statement from the applicants have come to a halt. In other words, Warrant Officer Ramakatsa only ceased the

¹⁸ See *East Rock Trading 7 (Pty) Ltd and Another v Eagle Valley Granite (Pty) Ltd and Others* (11/33767) [2011] ZAGPJHC 196 (23 September 2011) at para 5 to 9 in this regard.

¹⁹ *Ibid.*

conduct complained of by the applicants when the applicants brought this application. To my mind, this in itself is telling.

[74] The urgency of this matter is self-evident.

[75] I now turn to deal with the requirements of the prohibitory injunctive relief sought by the applicants.

[76] I did not understand the respondents to dispute that the applicants have a right not to be subjected to intimidatory or unlawful conduct by members of the SAPS, not to have their right to privacy infringed by unlawful entry to their residential premises, and to have a criminal investigation into their conduct conducted in a lawful, rational and procedurally fair manner, free from ulterior motives or abuse of power.

[77] The respondents contend that Warrant Officer Ramakatsa and the other members of the SAPS conducted themselves in accordance with their duties and obligations in accordance with the provisions of the Constitution, the SAPS Act and the SAPS Code of Conduct. It was also argued on behalf of the respondents that Warrant Officer Ramakatsa and the other members of the SAPS involved acted in accordance with the relevant provisions of the CPA.

[78] The matter therefore turns on the lawfulness or otherwise of the conduct of Warrant Officer Ramakatsa and the other members of the SAPS in the course of the investigation of the applicants. Having regard, for current purposes, only to the incident on 27 January 2026, this court would be hard pressed not to find the conduct of Warrant Officer Ramakatsa unlawful.

[79] I can do no better than to refer to the oft quoted paragraph of Heher JA in *Wightman*,²⁰ where the following is said in relation to disputes of fact:²¹

“A real, genuine and bona fide dispute of fact can exist only where the court is satisfied that the party who purports to raise the dispute has in his affidavit seriously and unambiguously addressed the fact said to be disputed. There will

²⁰ *Wightman t/a JW Construction v Headfour (Pty) Ltd and Another* 2008 (3) SA 371 (SCA).

²¹ *Wightman* at para 13.

of course be instances where a bare denial meets the requirement because there is no other way open to the disputing party and nothing more can therefore be expected of him. But even that may not be sufficient if the fact averred lies purely within the knowledge of the averring party and no basis is laid for disputing the veracity or accuracy of the averment. When the facts averred are such that the disputing party must necessarily possess knowledge of them and be able to provide an answer (or countervailing evidence) if they be not true or accurate but, instead of doing so, rests his case on a bare or ambiguous denial the court will generally have difficulty in finding that the test is satisfied. I say 'generally' because factual averments seldom stand apart from a broader matrix of circumstances all of which needs to be borne in mind when arriving at a decision. A litigant may not necessarily recognise or understand the nuances of a bare or general denial as against a real attempt to grapple with all relevant factual allegations made by the other party. But when he signs the answering affidavit, he commits himself to its contents, inadequate as they may be, and will only in exceptional circumstances be permitted to disavow them. There is thus a serious duty imposed upon a legal adviser who settles an answering affidavit to ascertain and engage with facts which his client disputes and to reflect such disputes fully and accurately in the answering affidavit. If that does not happen it should come as no surprise that the court takes a robust view of the matter." [My underlining.]

[80] I find the respondents' version of what had transpired at Dimitri Cavaleros' residence on 27 January 2026 unsatisfactory. I alluded to this above. The comprehensive and detailed version of Dimitri Cavaleros of what had transpired on the day is met by, what is essentially, a bare denial by the respondents, save for the version that Warrant Officer Ramakatsa was denied access by Dimitri Cavaleros, which as I have stated above, is so lacking in particularity that I reject the version outright.²²

[81] According to the respondents, the reason for entering Dimitri Cavaleros' residence was to obtain a warning statement. In terms of section 26 of the CPA, Warrant Officer Ramakatsa and the other members of the SAPS who assisted him was not entitled to enter Dimitri Cavaleros residence without his consent.

²² See *South African Veterinary Council and Another v Szymanski* 2003 (4) SA 42 (SCA) at paras 23 to 24.

The respondents proffered no evidence of having first audibly demanded admission to Dimitri Cavaleros' residence and of notifying of the purpose for which they sought to enter Dimitri Cavaleros' premises so as to justify their conduct under section 27 of the CPA.

- [82] That then puts paid to the second requirement, namely that some act has actually been done constituting interference with the applicants' rights, or a well-grounded apprehension that acts of the kind will be committed by the respondents.²³
- [83] This requirement has also been met in respect of Vana Cavaleros who has been traumatised by the unannounced visits to her premises which left her terrified by the express threat of Warrant Officer Ramakatsa that the next time he would be "with force".
- [84] The respondents' glaring failure to deal with this very specific allegation is significant and the respondents' bare denial in this regard is rejected outright.²⁴
- [85] Much of the debate before me and, in respect of which I requested further written submissions by the parties, turned on the availability of an alternative remedy.
- [86] At the outset, it needs to be emphasised that the test is not merely the lack of an alternative remedy, but the lack of a satisfactory remedy.²⁵
- [87] Because a final interdict is a drastic remedy the court will not grant an interdict when the applicant can obtain adequate redress in some other form of ordinary relief.²⁶

²³ See *Semi Conductor Services Export Division (Pty) Ltd v Absa Bank Ltd* (unreported, GJ case no 2023-109603 dated 24 October 2025); (2023-109603) [2025] ZAGPJHC 1072 (24 October 2025) at para 78 and 79 where reference is made to Van Loggerenberg, *Erasmus: Superior Court Practice*, RS 28, 2025, D6-20.

²⁴ *Szymanski* at paras 23 to 24.

²⁵ *V & A Waterfront Properties (Pty) Ltd and Another v Helicopter & Marine Services (Pty) Ltd and Others* 2006 (1) SA 252 (SCA) at para 23; Van Loggerenberg, *Erasmus: Superior Court Practice*, RS 28, 2025, D6-21.

²⁶ Van Loggerenberg, *Erasmus: Superior Court Practice*, RS 28, 2025, D6-21 to D6-22.

- [88] In *Winne*,²⁷ the court referred to *Reserve Bank*,²⁸ where an interdict was refused where it was held that there was “an equally effective, if not more effective, remedy available” to the applicant to obtain “the same result” as would be achieved by the granting of an interdict.
- [89] The respondents contend that the applicants have not met this requirement for a final interdict to issue.
- [90] Firstly, the respondents contend that the applicants can simply provide the warning statements. I agree with the applicants that this contention misses the point entirely. The purpose of the application is not to avoid providing the warning statements but rather to ensure that the applicants are not harassed and intimidated in the process, and that the investigation is conducted lawfully.
- [91] The other ground relied upon by the respondents for contending that the applicants have an adequate or satisfactory alternative remedy at their disposal requires more consideration. It is in this regard that I required the parties to deliver supplementary written submissions.
- [92] The respondents contend that the applicants complained that they have been harassed and intimidated but failed to seek a protection order in terms of the Protection from Harassment Act 17 of 2011 (“Harassment Act”). The Harassment Act makes provision for a complainant to apply to a Magistrate’s Court for a protection order against harassment (as defined in the Harassment Act). The process is relatively straightforward, and it is structured in a manner that an individual can easily and inexpensively approach a Magistrate’s Court for protection.
- [93] Section 2 of the Harassment Act which provides as follows:
- “(1) A complainant may in the prescribed manner apply to the court for a protection order against harassment.
- (2) If the complainant or a person referred to in subsection (3) is not

²⁷ *Winne & Godlonton NNO v Mutual & Another NNO* 1973 (1) SA 283 (E) at 295G.

²⁸ *Reserve Bank of Rhodesia v Rhodesia Railways* 1966 (3) SA 656 (SA).

represented by a legal representative, the clerk of the court must inform the complainant or person, in the prescribed manner, of –

- (a) the relief available in terms of this Act; and
 - (b) the right to also lodge a criminal complaint against the respondent of crimen injuria, assault, trespass, extortion or any other offence which has a bearing on the persona or property of the complainant or related person.
- (3) (a) Notwithstanding the provisions of any other law, the application for a protection order may, subject to paragraph (b), be brought on behalf of the complainant by another person who has a material interest in the well-being of the complainant or related person. ...”

[94] I was further referred to the preamble and section 3(2) of the Harassment Act. The preamble provides as follows:

“SINCE the Bill of Rights in the Constitution of the Republic of South Africa, 1996, enshrines the rights of all people in the Republic of South Africa, including the right to equality, the right to privacy, the right to dignity, the right to freedom and security of the person, which incorporates the right to be free from all forms of violence from either public or private sources, and the rights of children to have their best interests considered to be of paramount importance;

AND IN ORDER to —

- (a) afford victims of harassment an effective remedy against such behaviour; and
- (b) introduce measures which seek to enable the relevant organs of state to give full effect to the provisions of this Act, ...”

[95] Section 3(2) of the Harassment Act provides for a Magistrate’s Court to issue what is known as a protection order, which is an interdict (both interim and final) against persons found to be engaging or having engaged in harassment.

[96] Harassment is defined in section 1 of the Harassment Act as:

“**harassment**” means directly or indirectly engaging in conduct that the respondent knows or ought to know-

- (a) causes harm or inspires the reasonable belief that harm may be caused to the complainant or a related person by unreasonably-
 - (i) following, watching, pursuing or accosting of the complainant or a related person, or loitering outside of or near the building or place where the complainant or a related person resides, work, carries on business, studies or happens to be;
 - (ii) engaging in verbal, electronic or any other communication aimed at the complainant or a related person, by any means, whether or not conversation ensues; or
 - (iii) sending, delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic mail or other objects to the complainant or a related person or leaving them where they will be found by, given to, or brought to the attention of, the complainant or a related person;

...”.

[97] If the Magistrate’s Court is satisfied that the requirements are met, first an interim and then a final protection order will be issued against the respondent. In the protection order, the court can order that the respondent be prohibited from engaging in harassment, enlisting the help of another to do so, or committing another act as specified in the protection order.²⁹

[98] When a protection order is issued, the court will also make an order authorising the issue of a warrant for the arrest of the respondent, although such warrant will be suspended subject to compliance with the protection order.³⁰

[99] The purpose of this is so that, if the respondent continues to act towards the complainant in a manner contrary to the protection order, the complainant can

²⁹ Section 10(1).

³⁰ Section 11(1).

hand the warrant of arrest to any member of the SAPS, who will consider the conduct and can immediately arrest the respondent.³¹

[100] According to the respondents, the conduct complained about by the applicants fall squarely under the definition of “harassment” in the Harassment Act. As such, the respondents contend that the alleged harassment by Warrant Officer Ramakatsa can be adjudicated upon in and curtailed by the Magistrate’s Court. In other words, so it is contended, an application for a protection order, in terms of section 2 read with section 9 of the Harassment Act is an adequate and satisfactory remedy in relation to the relief sought in prayers 2 and 3 of the applicants’ notice of motion.³²

[101] The applicants contend that the Harassment Act is not an alternative remedy which precludes the granting of the injunctive relief sought for, *inter alia*, the following reasons.

[102] Firstly, harassment, as it is defined in the Harassment Act, is closely linked to unreasonable conduct such as stalking, unsolicited and unwanted conduct, communication or advances that cause harm. Whilst Warrant Officer Ramakatsa’s conduct was unreasonable conduct causing harm, only some of the conduct falls within this definition. According to the applicants, the conduct of Warrant Officer Ramakatsa and the other members of the SAPS involved in this matter is better characterised as the unlawful exercise of statutory power, including, *inter alia*:

- a. Unlawfully accessing a private dwelling;
- b. Abusing their powers by using their position as members of the SAPS to intimidate and threaten the applicants;
- c. Directly undermining the applicants’ right to legal representation in the obtaining of their warning statements; and

³¹ Section 11(4).

³² Which includes the relief granted in prayers 2 and 3 of my order of 17 March 2026.

- d. Failing to provide the applicants with the details of the complaints against them with sufficient particularity to enable the applicants to provide the warning statements.

[103] The conduct complained of is more akin to an unlawful search, seizure and entry to property than it is to the type of harassment listed in the Harassment Act. Further, it also encompasses intimidatory conduct, which does not fall within the definition of “harassment” in the Harassment Act.

[104] Secondly, the applicants contend that the Harassment Act provides for a protection order to be issued against a respondent, prohibiting him or her from engaging in the harassment. The relief sought by the applicants includes injunctive relief against Warrant Officer Ramakatsa, members of the SAPS in Gauteng, under the direction of the first to fifth respondents, and other relief against the first to fifth respondents. At most, a protection order directed at Warrant Officer Ramakatsa individually would, in principle, have provided some measure of protection. But, the remaining prayers would simply not have been accounted for had the applicants approached the Magistrate’s Court under the Harassment Act instead of this court for an interdict. The type of relief sought by the applicants, in total, falls exclusively within the jurisdiction of the High Court.

[105] Thirdly, the applicants contend that the Harassment Act is designed to address interpersonal conduct such as stalking, sexual harassment and cyberbullying between private persons. It is not designed to restrain the unlawful exercise of public power by an organ of state. In contrast, the applicants’ complaint is not that they are victims of interpersonal harassment in the ordinary sense contemplated by the Harassment Act. Their complaint is that members of the SAPS are exercising police powers unlawfully to intimidate them in connection with a criminal investigation.

[106] Fourthly, the applicants contend that the Harassment Act does not oust the High Court’s jurisdiction for injunctive relief in circumstances like the present.

[107] In *JR*,³³ in the context of interpersonal harassment, this court dismissed the contention that there was an alternative remedy in terms of the Harassment Act. The court noted that the Harassment Act was promulgated to provide for the issuing of protection orders against harassment and to afford victims of harassment an effective remedy against such behaviour but then held that the Harassment Act would not provide a remedy for all the unlawful conduct perpetrated by the respondents, nor did the Harassment Act cater for the extent of relief sought. Thus, the court held that, in the circumstances of that case, the only ordinary and more effective remedy which provided the necessary protection was an interdict.³⁴

[108] Where, as in this instance a number of constitutional rights are at stake unless a court intervenes, the appropriate form of relief is, as the Constitutional Court recently held in relation to unlawful searches, to “approach a court on an urgent basis for an interdict”.³⁵

[109] A similar approach was recently taken by this court in *Mamiane*,³⁶ where threats were made by a lieutenant colonel to the applicants in that matter and the court held that: “there can be no effective legal remedy other than an interdict, to restrain her from carrying them out”.

[110] There is force in the applicants’ submission that, whilst the injunctive relief sought herein and a protection order under the Harassment Act issued by a Magistrate’s Court constitute interdicts, the effectiveness of the enforcement mechanism of the Harassment Act is not functionally equivalent to the enforcement of a High Court interdict against an organ of state. The Harassment Act provides for a warrant of arrest when a protection order is breached.³⁷ This mechanism is a powerful tool in the hands of a complainant who can then approach a police station and ask for the warrant to be acted upon. But, so it is contended on behalf of the applicants, such enforcement

³³ *JR v TR* (2021/21609) [2022] ZAGPJHC 392 (13 June 2022) at para 86 to 91.

³⁴ *JR* at paras 86 to 91.

³⁵ *Residents* at para 84 and 88.

³⁶ *Mamiane v Minister of Justice and Constitutional Development* 2025 JDR 1476 (GJ) at para 16.

³⁷ Section 11 of the Harassment Act.

mechanism is ill-suited to restraining institutional conduct of the SAPS in the Gauteng area. The applicants ask the rhetorical question that, in the current circumstances, to whom would the applicants turn to enforce their protection order – the very persons whose conduct they seek to restrain? Whilst a protection order from a Magistrate’s Court is enforceable by warrant of arrest against an individual, it cannot restrain institutional conduct complained of in this matter. By contrast, a High Court interdict is enforceable by contempt proceedings against the responsible officials and carries with it the supervisory jurisdiction of the High Court over organs of state. I agree with the applicants that the latter provides for materially different and more effective protection in the circumstances of this case.

[111] This brings me to the mandatory injunctive relief sought by the applicants. In this regard, the following relief was sought by the applicants:

- “5. The fifth respondent be directed to continue with the investigation under CAS vide Sandringham CAS ... in a manner that is lawful, reasonable and objective, and cognisant of the applicants’ constitutional rights, including that the fifth respondent be directed:
- a. to provide the applicants or their legal representatives, within 5 days of this Court’s order, with a clear explanation of any and all the charges, complaints and allegations against them which are under investigation; with sufficient particularity to enable the applicants to provide the warning statement the fifth respondent requires.
 - b. to provide the applicants or their legal representative, within 5 days of Court’s order, in writing, the questions that the fifth respondent and/or the investigating team require the applicants to answer as part of the warning statement; and
 - c. to allow the applicants a reasonable period to respond to such questions and prepare warning statements in the presence of their legal representative and in circumstances where such statements are made freely, voluntarily and without undue coercion or intimidation.”

[112] The respondents contend that it is not necessary to direct Warrant Officer Ramakatsa to continue with his investigation of the applicants in a lawful, reasonable and objective manner, because Warrant Officer Ramakatsa has a

legal duty to do so in terms of section 205(3) of the Constitution and section 13(3)(a) and (b) of the SAPS Act.

[113] I granted some of the relief sought by the applicants under prayer 5 and 5(a) of the notice of motion, but amended it to the extent I viewed it necessary. I declined to grant the relief sought in prayers 5(b) and 5(c) of the notice of motion. My reasons for amending the relief sought in prayers 5 and 5(a) of the notice of motion and declining the relief sought in prayer 5(b) and 5(c) of the notice of motion are, essentially, that I agree with the submissions made on behalf of the respondents that to grant such relief would, constitute prescribing to the SAPS when and in which manner it should conduct the investigation. If I granted such relief, the court would, in my view, commit a judicial overreach. This court cannot prescribe to the SAPS how it should conduct its investigations, other than to ensure that it does so in a lawful manner.

[114] Insofar as the issue of costs is concerned, the applicants were substantially successful and therefore the normal rule that costs should follow the event finds application. In the notice of motion, the applicants sought costs against the respondents, jointly and severally, on scale C. Although the cost of two counsel was sought in the applicants' heads of argument dated 23 February 2026, in the draft order submitted to my secretary subsequently, the order of costs sought aligns with the costs order sought in the notice of motion. If the request for cost of two counsel had been persisted with, I would have seriously considered granting such an order. The scale of costs (scale C) is justified by, at least, the importance of the matter to all parties concerned and the complexity of some of the issues raised.


PG LOUW
ACTING JUDGE OF THE HIGH COURT
GAUTENG DIVISION, JOHANNESBURG

Date of hearing:	25 February 2026
Date of further written submissions:	13 and 16 March 2026
Date of judgment:	12 June 2026

Appearances

Counsel for Applicants: L N Harris SC with E A van Heerden

Instructed by: Webber Wentzel

Counsel for respondents: S Mamoepa

Instructed by: State Attorney