IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

REPUBLIC OF SOUTH AFRICA

Date of hearing: 11 to 13 October 2016

Case number: 1753212013

Date of judgment: 1/11/2016

In the matter between:

JOHANNES MOLAMO MAFFA **Plaintiff**

and

MINISTER OF SAFETY AND SECURITY **First Defendant**

NATIONAL PROSECUTING AUTHORITY OF SA **Second Defendant**

JUDGMENT

BRENNER AJ

1. The case in this matter involves damages claims for unlawful arrest and detention, and malicious prosecution. In the particulars of claim, the plaintiff, (referred to below as Johannes Molamo Maffa ("Maffa")), claimed payment from the defendants, the Minister of Safety and Security ("the Minister), and the National Prosecuting Authority of SA ("the NPA"), of R150

000.00 for past loss of income, R60 000.00 for legal defence fees, and the sum of R12 000 000.00 for general damages.

2. The fons et origo of the claims was the arrest of Maffa on Friday, 9 July 2010, at about 21h00, without warrant, on a suspected offence of rape of a then three year old girl, B. T. ("B."). B. was born on [....] 2007. Her mother was one E. T., ("E."), whose mother, T. T., ("T."), was in a romantic relationship with Maffa. T. and Maffa had been living together at [1....] Extension […], Soshanguve, for several years before the arrest.

3. In the particulars of claim, reference was made to Maffa's subsequent arrest and detention, for some ten months, after his bail in the rape case had been revoked. This had occurred after E. had preferred a charge of intimidation against him, after alleging that Maffa had come to her home and threatened her, this despite the bail condition in the rape case that he was to refrain from contacting E. or B..

4. Before Court, in this trial, in his opening address, Maffa's Counsel recorded that Maffa's case for damages was confined to his arrest and detention on the rape charge, and for his malicious prosecution consequent upon this charge.

5. He recorded that Maffa did not persist in a claim for unlawful arrest and detention, and prosecution, on the intimidation charge. Maffa did not testify in chief on the factual circumstances relating to the intimidation charge and his subsequent arrest and incarceration.

6. The Court's attention was drawn to the fact that the original police docket had gone missing at some stage and that attempts were made to reconstruct same and to make the reconstituted docket available to Maffa's legal team. The original docket was ultimately located in the drawer of a police liaison officer shortly before trial and copies were made available to Maffa's legal team. Both copies of the reconstructed docket and the original

docket were contained in bundles in the Court file.

7. The bundles that were produced at the hearing were handed in on the agreed premise that the documents would serve as evidence of what they purported to be without admission of the veracity of their contents.

8. It was common cause that Maffa was arrested without warrant, and that this had occurred in terms of Section 40(1)(b) of the Criminal Procedure Act, Number 51 of 1977 ("the CPA"). The first defendant, being the Minister, accepted the onus of proving the lawfulness of the arrest.

9. Testimony was led on behalf of the Minister and the NPA. Warrant Officer William Simon Ramogajana Sekgothe ("Segkothe") gave evidence for the Minister concerning Maffa's arrest in July 2010, and prosecutor Kgakgamatso Letsholo ("Letsholo") testified for the NPA about the ensuing prosecution. Maffa testified on his own behalf.

10. The complainant in the rape case, E., did not give evidence. This because, according to the defendants, her and B.'s whereabouts were unknown. The Court was asked to admit, as an exception to the hearsay rule, her statements, in terms of Section 34(1)(a) and (b) of the Law of Evidence Amendment Act, 45 of 1988 ("the Evidence Act"). This section provides for the admission of hearsay evidence in civil proceedings, and operates in addition to the admission of hearsay evidence in civil and criminal matters under Section 3 of the Evidence Act. I made a provisional ruling that reference could be made to these statements but indicated that I would make a final ruling in my judgment. During the hearing, all parties referred to these statements in evidence.

11. I will traverse the chronology of events in unison with the evidence advanced at the hearing. It is incumbent on me to traverse in some detail the circumstances culminating in Maffa's arrest on 9 July 2010, and thereafter, the events germane to his prosecution on the

rape charge, until it was struck from the roll on 30 September 2011.

12. It was averred that the alleged rape of B. occurred on Monday 5 July 2010 at about 08h00. The evidence, however, indicated that this was highly improbable and that the alleged offence, if it occurred, took place at some stage between E.'s departure from home for hospital at 08h00 on 5 July 2010 and 9 July 2010. By 5 July 2010, Maffa and B.'s grandmother, T., had been living together for several years at [1....] Extension [1…], Soshanguve. At this time, B.'s mother, E., was living nearby in Extension [...], Soshanguve, in a separate home. At all material times hereto, neither T. nor E. was employed.

13. On Friday, 9 July 2010, at 15h35, E. made a statement under oath, at the Akasia police station, in which Maffa was implicated in the alleged rape of her daughter. Since its contents are germane to ensuing events, the operative paragraphs are quoted verbatim below:

> *"On Monday 2010107105 at about 08h00 I left my baby B. at [1…] Extension [...], Soshanguve and taken by an ambulance to Hospital Dr George Mukhari. When I came back on Thursday, I never ever say anything on my child. On 2010/07/09 at about 11h00, my child started crying and I asked what is the problem.* ***My child told me that her grandfather took something and put it inside her vagina and now its paining.***

I took the child to Roslyn Clinic for check-up. They checked my child and told me I must go to the police to open a case. There is an infection. I went to Akasia to open a case. That all I can state."

(my emphasis)

14. At about 17h30 on 9 July 2010, a member of the Akasia police phoned the Ga Rankuwa

Cluster Family Violence Child Protection Sexual Offences Unit ("the Unit") and spoke to Sekgothe about the complaint preferred by E.. Sekgothe, Warrant Officer Maloka ("Maloka") and Constable Motsa ("Motsa") arrived at the Akasia police station where Sekgothe read her statement and asked her certain questions. Sekgothe and Motsa accompanied her and B. to the Tshwane Medico-Legal Crisis Centre where B. was examined at 19h15 by Dr S M Luklozi, who completed a Form J 88 and handed same over to Sekgothe and Motsa.

15. Dr Luklozi found no injuries on clinical examination, but observed a *"superficial tear at six o'clocK'* in the posterior fourchette. The conclusions were:

> *"Superficial tear posterior fourchette is consistent with penetration or* a stretching force. (Vaginal discharge sent for testing microscopy in lab)".

16. On 9 July 2010 at 21h57 Sekgothe deposed to a statement on the circumstances of Maffa's arrest. It reads:

> *"....I* am *the Investigating officer in this case of rape. On the 09/07/2010 Friday, at about 17:30, I was officially on standby, duly accompanied by Warrant Officer Maloka and Constable Motcha. We received a call from Akasia police station.*
>
> *We attended that call and signed for* a *docket of rape. At later stage we took the child of 3 year old accompanied by her mother E. T. at Tshwane Medical Legal Clinic Centre for further examination matter. After the whole process, we deliver the complainant back at home Extension [...] Ga-Rankuwa/Soshanguve. On our arrival the complainant point out the suspect he was very known to her as s. Mafa Mdama Johannes of 38 years of age.*
>
> *We explained him about that offence and his right. We then arrested him and detained.* "

17. On 10 July 2010 at 14h50, Sekgothe deposed to a further statement, the operative paragraphs whereof read:

> ".....I am the investigating officer in this case. On the 09/07/2010, I received the case of rape at Akasia police station. The case was signed at the computer system. I interview the complainant Miss E. T. who is the biological mother of the victim B. T. of 3 years old. The victim will be taken for assessment.
>
> *The suspect was known as the stepfather of the complainant. The complainant alleged that her child B. told her that the grandfather touched her vagina. The complainant examined the child vagina on the spot and it was having* a *bad smelling. The child was complaining about pains and he took her to the clinic where the nurses were suspecting about sexual abuse. We took the child at the hospital for examination. On our arrival back* we found the perpetrator at his home and he was arrested. That is all about my statement."

18.Sekgothe testified that he had been in the police force for 25 years and in the above Unit for 10 years. His evidence before Court was consonant with the above statements made by him on 9 and 10 July 2010. He said he read the statement of E., asked her questions about it, and then he read the Form J88, (completed at 17h15 on 9 July 2010), and saw a material consistency between the complaint in the statement and the findings in the Form J88. He confirmed that the Form J88 was not completed in the presence of any police officer.

19.When the complainant pointed out Maffa (in the home he shared with T. T.), as the person whom B. referred to as her grandfather, and B., while repeatedly crying, pointed to Maffa as her grandfather, Sekgothe said he was satisfied that there were reasonable grounds to arrest Maffa without a warrant, on suspicion of having committed an offence under

Schedule 1 of the CPA

20. He testified that it was not his function to interrogate B. about the complaint, including the date, time and place of the alleged offence, because she was only 3 years old and this was best left to a forensic social worker with the necessary skills. This was commensurate with standard police procedure and his experience in the field. He confirmed that he had handled a lot of cases of rapes involving minor children, including three year olds.

21. Sekgothe confirmed that the pointing out by B. was not recorded in any police statements. Maffa denied that either E. or B. pointed him out. Sekgothe conceded that no enquiry was made of E. about the person or persons in whose custody she had left B. and whom she had failed to identify in her first statement. He said he had assumed that E. would not leave B. with a strange person.

22.He said that he never spoke to T. to obtain her version because he left this to the investigating officer, Maloka, who had passed away in 2011 or 2012. He was only involved in this case initially from 9 July 2010 to 12 July 2010, when Maloka took over. On the night of Maffa's arrest at the latter's home, Sekgothe said he never saw T. at the house nor was he introduced to her by Maffa. Under cross examination, it was put to Sekgothe that he, Sekgothe, had been in a romantic relationship with E. T. since 2009, and that Sekgothe had been seen in the area driving an Isuzu vehicle. He denied this. It was put to him that T. had indeed met him on the night of the arrest and that T. had told him that Maffa did not rape B. and that B. was with her all the time. Sekgothe denied that this took place. It was further suggested to him that at about midnight on 5 July 2010, a friend of E.'s, one Baby, (surname unknown), had brought B. to Maffa and T.'s home. Sekgothe replied that this was at variance with the version given to him by E..

23. After Maloka's death, the case was assigned to Warrant Officer Pholoana ("Pholoana"),

who had since retired. Sekgothe confirmed that the police docket appeared to contain no record of any attempts to contact T., to obtain her version of events. He said that he left this to the subsequent investigating officer.

24. On 10 July 2010, at 11h00, Maffa executed a warning statement. He did not decline to provide any details. He made certain statements, namely:

> *"That I* am *deny with their allegation against me. At this moment I know the victim of B. T..*
>
> *I* am *the boyfriend of her grandmother T. T.. For* a *period of eight years. We were residing together at the abovementioned premises ([1....] Ext [1...] Soshanguve). On the 09/07/10 at about 21h00 I was at the mentioned place, and the police officer accompanied by the mother of B. T. came at the house.*
>
> *At later stage I was amazed then that officer alleged that I* am *the suspect on the case of rape. I* ***tried to explain but all in vain.*** *I have been arrested and detained at Soshanguve police station. I never sustained any injuries during the arrest.*
>
> I **will explain everything in the eyes of the law.** At this stage, I would like for extraction of blood with the purpose of DNA analysis or result. That is all about my declaration."
>
> (my emphasis)

25. In evidence before this Court, Maffa testified that he had been in a relationship with T. between 2003 and 2012. They were living together in July 2010, while E. lived in Soshanguve about two kilometres away from their home. He had helped T. to set up a tuck shop business which ran from 2004 to 2006, with E. helping her mother. But the venture was unsuccessful. He testified that E. and B. had arrived in Soshanguve from Rustenberg

in about 2009, and had lived with them for about eight months before E. found other accommodation in Soshanguve.

26. He said that, between 5 and 9 July 2010, he had been working as a hawker of World Cup soccer flags, t-shirts, caps, umbrellas, and other such goods, in Voortrekker Street, Pretoria. He earned between R3000,00 and R4 000,00 per day at the time. He had been a hawker since 1998. His average income was about R400,00 per day. It escalated over the World Cup period. He would leave home at about 07h00 and return at about 19h00. On every one of these dates, he followed the same routine. The home consisted of three rooms, a kitchen and two bedrooms.

27. At the time, he was not on good terms with E. because he had accused her of stealing his dvd of kwaito music. He alleged that T. and E. fought all the time.

28. At around midnight on 5 July 2010, while in bed with T., they heard a knock at the door. A friend of E.'s, one Baby, whose surname was unknown, handed B. over to T.. She said the baby was crying and needed to be with her grandmother. T. took B. to the spare bedroom where she slept with B.. Maffa slept on his own. This occurred for the entire duration of B.'s stay with them, until 8 July 2010. On 6 July 2010, T. fetched clothes for B. and bathed her as she was dirty. On his return home on 8 July 2010, T. informed him that E. had collected B.. Maffa said that B. did not complain of any pains during this period.

29. He said he had a good relationship with B., who called him "papa". He had never bathed her or changed her nappies. He was never left alone with B. during the time of her stay with him and T..

30.According to Maffa, on the evening of 9 July 2010, Sekgothe, E. and B. arrived at his home where he was accused of raping B.. He said he invited Sekgothe to speak to T. in the bedroom. They went to T. who informed Sekgothe that she had been babysitting B. all along

and that nobody had raped B., and that she would have seen this if it had occurred. Sekgothe told her she could inform the Court about this and proceeded to handcuff Maffa and place him in an Isuzu vehicle. On the way to the police station, Maffa averred that Sekgothe suggested a bribe, asking Maffa how much money he had.

31. Although he was not the prosecutor at inception of proceedings, prosecutor Letsholo guided the Court through the contents of the docket contained in the bundles before Court so as to reconstruct the time line of events.

32. On Saturday, 10 July 2010, T. and Maffa's brother arrived at the police station. According to Maffa, T. offered to give her version to the police but they refused. Maffa conceded that he did not tell the Court that T. wanted to make a statement. He said that T. told his lawyer that she wanted to do so, but he could not explain why his lawyer had failed to get her statement. He said that what she told them just appeared to "fall on deaf ears."

33. On Sunday 11 July 2010, Maffa was taken to Soshanguve Hospital for blood tests. On 12 July 2010, following three days in custody, he made his first appearance in the Pretoria Regional Court. The case was remanded to 19 July 2010, when Maffa successfully applied for bail of R1 000,00 and was released. Maffa was legally represented by one Mr Mogale ("Mogale"). Maffa's brother paid his bail. Maffa's bail affidavit dated 19 July 2010 is less enlightening than the contents of his warning statement. when asked for his reaction to the merits of the rape charge, he says:

> "*I did not commit the offence alleged. I request the Court to release me on bail because I need to support my children.*
>
> *The victim in this case stays with her mother in another address.* "

34. A note in the court file concerning the grant of bail provided that same was granted on

condition that Maffa was not to contact the State witnesses B. T. and E. T..

35. Maffa spent 10 days in detention. Maffa testified that, on 19 July 2010, T. obtained a protection order against E. at the Magistrates Court based on E.'s false allegations against Maffa, and took it to the Akasia police station for the police to serve it. He was unable to produce documentary evidence of this. After Maffa's release, as he was going home, he heard a whistle in his suburb and was told by one Mrs Mathebula that there was a crowd of people at his home, because the community had been alerted to the rape charge against him. When he arrived at his house, he saw E. with her boyfriend. A window pane had been broken. He did not stay at home that night but went to Rosslyn. He later preferred a charge against E. for malicious damage to property.

36. Maffa said that he left T. in about 2012. He was now living about thirty minutes away from their former home, in Inkandla Junction, Erasmus. According to Maffa, T. passed away in September 2015.

37.By 9 August 2010, E. and B. had moved to another address, being Extension [...] B, 16560. At 14h43 on 9 August 2010, she preferred another charge of intimidation against Maffa. She averred that, on 9 August 2010, at about 02h05, while they were asleep, a person identifying himself as "Maletisha", knocked on her door. When she opened it she saw her stepfather, Maffa, in the company of the person who had knocked at the door. Maffa demanded his TV, to which she replied that she knew nothing about it. She reminded him that the Magistrate had prohibited him from approaching her. Maffa replied that he now knew where she was staying and intended to burn down her shack, with her in it. B. woke up and began to cry. At about 13h00 the same day, Maffa returned and threatened her again. E. stated that the owner of the shack was a security guard who worked night shifts. She no longer felt safe any more because Maffa now knew where she was living.

38. On 11 August 2010, Maffa was arrested on a charge of intimidation. On the same day, he signed a warning statement in which he denied the charge. He admitted having gone to E. T.'s home to ask her if she knew anything about his TV which was stolen while he was in custody. He does not say when he did this. He denies having gone to her home on 9 August 2010, nor having communicated with her. He avers that she had broken into his home. The material sections of Maffa's statement are quoted:

> *'"I deny the allegations brought against me. I state that I went to the complainants place (illegible) for to help me to question the complainant about any stolen TV whilst I* was *no bail. Upon arriving at her place I asked her about the stolen TV and he said to me that he knew nothing about it.*
>
> *On the 9th /08/2010 I have never went to the complainants place and have never communicated with her or threatened her in any manner. This is (illegible) implications. She*is *the one who* has *broke into my house. I have reported the matter at Akasia police station GAS 51710712010.'*

39. He appeared on 12 August 2010 in the Pretoria North Court. Following remands on 19 August 2010, 24 and 30 August 2010, on the last date, application was made to cancel Maffa's bail. On 24, 30 and 31 August 2010, lawyer Mogale acted for Maffa. On 31 August 2010, the application to revoke bail was mechanically recorded. Maffa testified that he and E. testified at the hearing. On this date, his bail in the rape case was revoked, and he was placed in custody pending trial, and the trial was transferred to the Regional Court.

40. On the same day, the intimidation charge was withdrawn by the Pretoria North Magistrates Court with a note "See A377/10". The uncontested evidence of Letsholo indicated that the intimidation charge under case A433/10 was withdrawn so as to add same to the rape charge under case A377/10, to be heard in the Regional Court, for hearing on 6

October 2010.

41. On 13 September 2010, a report was issued by the forensic science laboratory of the SAPS summarising its results on the swabs as

> *"No semen was detected on the swabs.... Therefore no DNA comparison will be carried out.* "

42. On 6 October 2010, Maffa requested a postponement to secure legal aid. The case was remanded to 24 November 2010 when the State applied for a postponement to secure the reports of a social worker on a victim statement and an intermediary. On 16 February 2011, the case was remanded for further reports. Advocate Dubazane ("Dubazana") now acted for Maffa, and appeared for him on all dates save for 2 September 2011 and 19 September 2011. On 18 March 2011, a further remand was given for the reports to be filed. On 13 May 2011, a further remand for Mnisi's report was given until 13 June 2011.

43. On 13 May 2011, Gracious Mnisi ("Mnisi") had issued a report on B.. Mnisi was a forensic social worker employed by the SAPS in Krugersdorp, and registered with the SA Council for Social Services Professions in December 2002. She had a Bachelor degree in Social Sciences in Social Work Honours in 2003, majoring as a social worker. Her report states:

> *"During the course of my duties, I assessed B. T., a girl of 04 year old, for the purpose of section 170A act 51 of 1977.*
>
> *In my opinion B. will not be able to testify in court because she is unable to verbalise the alleged incident in a consistent manner.*
>
> *<u>Reason</u>*
>
> *Warrant officer Pholoane has referred the case of B. to the Social worker, to*

determine whether the child concerned will be able to testify in court.

During the assessment the child displayed poor referential communication, she was unable to verbalise the alleged incident, she only says that "ntate moholo u ntshwere mopele ka setlhari." When she says "mopele" she point her private part with her hand. But unable to clarify what is "setlhari" and where is the "setlhari" or how is the "setlhari" looks even when anatomical drawings are used."

Her verbal description of the alleged sexual incident was very limited and short with not much detail. She was unable to describe the quantity and time of the alleged incident. She also mentioned that her maternal grandmother was with her during the alleged incident. But the maternal grandmother is not cooperative.

Therefore, the child, B., will not be able to testify in court. She can suffer undue mental stress if she testifies in court of law."

44. On 13 June 2011, the prosecution called for a remand for a further statement from the complainant and for DNA analysis. Matta was granted bail of R500,00. From the bail receipt, it appears that the bail was paid on 27 June 2011 and he was released. On 2 September 2011, the case was remanded to 19 September 2011.

45. On 19 September 2011, Letsholo became involved as prosecutor for the first time. He testified that he was sure that he had the original docket on this date. He asked for another remand for the report of the social worker on the need for an intermediary. Maffa's Counsel was absent. The case was postponed to 30 September 2011.

46. On 30 September 2011, both charges of rape and intimidation were struck from the roll. This because the police docket had gone missing and Dubazana, acting for Maffa, asked for the case to be struck from the roll. The presiding officer reprimanded Letsholo about the

missing docket and told him to get his house in order. Maffa testified that Dubazana was paid a fee of R4 000,00 for his services.

47. Hereafter, steps were taken by Letsholo in unison with Pholoana to reconstruct the docket. By some time in 2013, according to Lethsolo, most of the contents of the docket had been sourced. Letsholo testified that the original docket was ultimately located in the drawer of liaison officer Warrant Officer Grabert, shortly before this trial.

48. On 9 April 2013, Maffa's civil Summons in this case was served on the Minister and the NPA.

49. On 15 May 2013, one year and nine months after the case had been struck from the roll, E. signed another statement concerning the rape charge against Maffa. At the time, her statement revealed that she lived at [1…]Extension [...] B Soshanguve. This statement was taken by officer Pholoana in Temba. Because more material detail was given in this document, its contents are quoted verbatim below:

> *"I state under oath in Setswana translated into English that I* am *the biological mother to B. T. who is now 6 years old and attending school at M. Primary School Block [...] Soshanguve in Grade 1.*
>
> *I further state that on 2010/07/09 I reported* a case *on with my child. B. T. was sexual abused by my mother's boyfriend Johannes Mafa.*
>
> **On 2010/07/06 I went to George Mkhari Hospital as I was sick and left my child B. T. who was 4 yrs old by then with my mother T. T. who was staying with her boyfriend J. M..**
>
> *I was admitted at George Mkhari hospital and discharged on 2010/07/08.* As *I* was *renting* a *shack around, I went to my mother's place to collect my child and* as *it was*

already late, my mother suggested that I left the child and that she will bring her the following day (2010-07-09) morning.

The following day on 2010-07-09 around 10h00 my mother brought my child. The same day after about an hour the child wanted to urinate and she could not urinate and complained that she was *having pains on her vagina.*

When asking her what happened she told me that her grandfather, referring to J. M.. was smearing her with medicine on her vagina.

I immediately took her to the clinic at Rosslyn. The sister just look on her vagina and referred her to the police station, saying that they cannot check her and that was a *police case.*

I went to the police station (Akasia) same day 2010-07-09 and a *case was opened after we were taken to the doctor at Pretoria.*

The police then accompanied us to my mother's place and arrested Johannes Mafa and took him with them to Akasia police station where he stayed for about 3 months."

(my emphasis)

50. On 24 May 2013, written representations were made to the NDPP (the NPA), to reinstate the rape charges. Letsholo was unable to state whether the NDPP replied to the letter containing these representations. By then, the second docket had been reconstructed. He said he did not recall having seen Mnisi's report when he wrote the letter to the NDPP. He said he saw this for the first time prior to this trial. Outstanding requirements mentioned in this letter included a statement from B., an intermediary report, results the discharge referred to in the Form J88, and DNA results. The fact that Letsholo did not know of the DNA report

or the discharge results is attributable to the fact that the reconstructed docket was incomplete.

51. On 15 July 2013, a psycho social report was issued by probation officer EM Masebe ("Masebe"), at the behest of the Pretoria North Magistrates Court, to establish the desirability of using an intermediary in respect of the rape complaint involving B.. A conspectus of the report reveals that B. never had any form of relationship with her biological father, who had denied paternity of her. In the result, one may safely assume that B. had no relationship at all with her biological father's parents. E. began to reside with another boyfriend, Thabo Masemene since 2009. They had had a child together, who was apparently five months old in June 2013. As at June 2013, they were residing at [1…] Ext [1...] B Soshanguve,

52. In recommending that B. should testify in Setshwana through an intermediary, Mnisi made the following comments:

> "Although the incident occurred in 2010 the child could recall what transpired. She was slightly uncomfortable talking about the incident. This is further aggravated by the fact that the accused is often seen in the neighbourhood.
>
> The incident created tension within the victim's maternal family because the accused was her grandmother's boyfriend. Her grandmother gave him support initially which suggested to her that she did not trust her granddaughter. Therefore the accused's presence in court might be too intimidating for the victim."

53. Letsholo testified that he remained satisfied that there was a prima facie, prosecutable case against Maffa by virtue of the following, namely:

a. The statements of E. T.;

b. The arresting statements of Sekgothe;

c. The two incidents involving the alleged rape and intimidation;

d. The contents of the Form J88, which were consistent with the statements of E. T.;

e. The report of Mnisi;

f. The report of Masebe concerning intermediation;

g. The seriousness of the alleged offence.

54. Letsholo opined that the use by B. of the word "setlhari" in Mnisi's report could mean either "tree" or "medicine". He took cognisance of the potential meaning as being "medicine" or "muti". He conceded, however, that E. should have been asked about who she had left B. with when she went to hospital. He conceded that the police should have enquired of Maffa about his whereabouts between 5 and 8 July 2010. He believed that efforts were made to obtain the statement of T. but had no record of this in the docket. He admitted that it was important to have obtained the version of T. in July 2010. He still believed that the case could proceed but that its pursuit was compromised by the inability to trace E. and B..

55.0n 21 August 2013, Sekgothe applied for the issue of a Form J175 for the re-arrest of Maffa. It was not implemented owing to Maffa's pending civil action. To date, over six years after the alleged incident, the charges have not been reinstated. But no decision has been made not to prosecute Maffa, this according to Letsholo and Sekgothe.

56. It appears from the docket that at some stage in January 2016, efforts were made by Warrant Officer Jacob Maphanga to trace E. at her given address, to no avail. He made enquiries around the vicinity but nobody had any idea of where she had gone. It was mentioned that she may have relocated to a new address in Soshanguve Extension 14 but no address was given. He had tried to reach her telephonically, to no avail. He deposed

to an undated statement to confirm this. One Tshepiso Malema deposed to a statement on 31 January 2016 is which she confirmed lawful ownership of stand [1....] Soshanguve Extension [1...] She confirmed that she had bought the property from Mrs Tabane in 2013. It would appear that this was the property occupied by T. T.. After this, Malema said that Mrs T. had moved and she had no knowledge of her whereabouts.

57. In Court, Sekgothe testified that he went to the Home Affairs office and the records centre for Extension [1…] on 8 or 9 October 2016 but made no progress. The address he obtained from Home Affairs was located on 8 October 2016 but E. was not found. He did not consider employing tracing agents. Letsholo confirmed in his evidence that the SAPS had its own tracing unit, which was not employed in this case.

58. I will proceed with my analysis of the evidence.

59. In the first instance, I will deal with the status of the statements given by E. and the facts that she gave no vive voce evidence at trial. The defendants relied upon Section 34(1)(b) of the Law of Evidence Amendment Act 45 of 1988 in applying to Court to introduce the statements into evidence. I am not satisfied that this section applies. Under this section, a statement made by a person and tending to establish that shall be admissible as evidence of the fact if the person who made the statement had personal knowledge of the matters dealt with **and** such person is dead or mentally or physically unfit to testify or is outside the Republic of South Africa **and** it is not reasonably practicable to secure his attendance or all reasonable efforts have been made to do so without success. There are two requirements and the former was not met. It was not suggested by the defendants that E. was dead or mentally or physically unfit or outside of the country. Accordingly, this section does not apply.

60. Nevertheless, I have resolved to admit the statements into evidence in terms of Section 3(1)(c) of the same Act, (which applies to civil and criminal proceedings), this in the

exercise of my discretion to admit same interests of justice.

61. On a conspectus of the facts, I am satisfied that the seven requirements for doing so have been fulfilled, namely, the nature of the proceedings and evidence, the purpose for which the evidence was tendered, its probative value, the reason for E.'s absence from Court, any prejudice to the value, the reason for E.'s absence from Court, any prejudice to the plaintiff, Maffa, and any other factor of relevance. The nature of the proceedings was civil, with the Minister bearing the onus to prove the lawfulness of the arrest. The evidence was tendered to assist in justifying the cause for Maffa's arrest and was material to the case. It bore a relatively high probative value but it did not prove definitive in relation to my findings. It was one of several indiciae in the enquiries into unlawful arrest and malicious prosecution. The reason for the defendants' inability to trace E. could potentially be attributable to her fear of him. This potential fear is borne out by her statement which confirms that Maffa had gone to her home in August 2010, and threatened to burn it down, and this was credible enough to have been believed by the Court which revoked Maffa's bail. The prejudice to Maffa in permitting this evidence was insignificant. E.'s statements were referred to by his Counsel during evidence, and Maffa was present in Court to advance vive voce evidence to controvert her assertions.

62. Significantly, in a case involving a claim for damages for unlawful arrest, that of **Minister of Safety and Security and another v Linda 2014(2) SACR 464 GP,** evidence was adduced by the arresting officer, the plaintiff (arrestee) and a witness for the arrestee. None of the State witnesses in the criminal case was called to testify.

63.1 will traverse the legal principles applicable to unlawful arrest and thereafter, those applicable to malicious prosecution, in unison with the proven facts in this case.

64. The cause of action in the arrest is based on the action iniuriarum, for which general

damages may be claimed. Special damages may be claimed under the lex Aquilia. In casu, the arrest occurred under section 40(1)(b) of the CPA. The onus is on the Minister to prove the lawfulness of the arrest. Section 40(1)(b) provides: (b) whom he reasonably suspects of having committed an offence referred to in Schedule 1, other than the offence of escaping from lawful custody."

65. Schedule 1 to the CPA includes, inter alia:

> "Rape, or compelled rape as contemplated in sections 3 and 4 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, respectively.
>
> *Sexual assault, compelled sexual assault or compelled self-sexual assault as contemplated in section 5, 6 or 7 of the Criminal Law etc, respectively."*

66. In **Hiemstra's Criminal Procedure Lexis Nexi's Issue 9 at 57,** the following is stated:

> *"In* **Duncan v Minister of Law and Order 1986 (2) SA 805 (A) @ 818 F-H** the jurisdictional facts which must exist before the power conferred by section 40 (1) (b) may be invoked, were set out as follows (1) the arrestee *must be* a *peace officer, (2) the peace officer must entertain* a *suspicion, (3) it must be* a *suspicion that the arrestee committed* a *Schedule 1 offence* (other than escaping) and (4) that suspicion must rest on reasonable grounds.

67. There is no fifth jurisdictional requirement for the arresting officer to consider whether there are less invasive options to bring the suspect before Court. Vide **Minister of Safety and Security v Sekhoto and Another 2011 (1) SACP 315 (SCA) par 22,** where the SCA overruled the finding that such requirement existed in **Louw and Another v Minister of Safety and Security and Others 2006 (2) SACP 178 T at 186a-187e.**

68. Arrest without warrant was summarised in **Sekhoto** as follows (**vide Hiemstra op cit at 5-8**):

(i) the jurisdictional prerequisites for S 40 (1) (b) must be present;

(ii) the arrester must be aware that he or she has a discretion to arrest;

(iii) the arrester must exercise that discretion with reference to the facts;

(iv) there is no jurisdictional requirement that the investigating officer should consider using a less drastic measure than arrest to bring the suspect before court.

(iv) there is no jurisdictional requirement that the investigating officer should consider using a less drastic measure than arrest to bring the suspect before court.

69. "Reasonable grounds" are to be interpreted objectively - Vide **Duncan**

supra at 814 D Per **Hiemstra op cit 5-8:**

"... *the section requires suspicion, not certainty. Such suspicion must, however, make sense, otherwise it is frivolous or arbitrary and not reasonable. There must be evidence that the arresting officer formed a suspicion which is objectively sustainable. See* ***Ralekwa v Minister of Safety and Security 2004 (1) SACR 131 T par 1.***"

70. I will succinctly summarise the salient facts in four cases where unlawful arrest was established, to illustrate the legal precepts applicable to same, as distinguishable from cases of lawful arrest.

71. In **R v Jones 1952(1) SA 327 (EDL), a** report to the police averred that a woman was hit with a sjambok, causing an open wound. The constable failed to confirm that the wound was dangerous as required by Schedule 1. An allegation of assault with intent to do

grievous bodily harm resulted in arrest without the officer securing information that a dangerous wound had indeed been inflicted.

72. Another example is the arrest in the case of **Olivier v Minister of Safety and Security and another 2008 (2) SACR 387 WLD.** The following occurred: Olivier, a superintendent in the SAPS based in Heidelberg, was arrested without warrant and detained for six and one half hours on a charge of theft alternatively fraud. The charges were later withdrawn. Another superintendent (who had received a call from an unidentified person) had told the arresting officer, Senior Superintendent Mokoena ("Mokoena"), that Olivier had retained certain cigarettes, alcohol, clothing and shoes seized in another case, instead of incinerating them or throwing them down a mine shaft, which was their standard modus operandi. Olivier had retained five cartons of cigarettes which lay openly on his desk in his office but explained to Mokoena that he had done so because he had to check with the area commissioner about the manner in which they were to be disposed of. Following Olivier's arrest, inspections of his office and home revealed no evidence of his possession of these goods. He was released on bail at 20h00 that night. Following a damages claim for unlawful arrest, he was awarded damages of R50 000,00.

73. At p395f of **Olivier.** the Court remarked:

> "The plaintiff gave an exculpatory explanation which should have alerted the second defendant (Mokoena) to the real possibility that the plaintiff at the time lacked the requisite mens rea for theft or fraud. Indeed, the second defendant seemed to know very little of the requirements of s40(1)(b) where a *peace officer effects an arrest without warrant.""*

74. The Court held that the enquiry must be decided on its own facts but enunciated certain general principles at p398 d-f:

"This entails that the adjudicator of fact should look at the prevailing circumstances at the time when the arrest was *made and* ask *himself the question "was the arrest of the accused in the circumstances of the case, having regard to night risk, permanence of employment and residence, co operation on the part of the accused, his standing in the community or amongst his peers, the strength or weakness of the case, and such other factors which the court may find relevant, unavoidable, justified or the only reasonable means to obtain objectives of the police investigation?" The interests of justice may also be* a *factor.* "

75. In **The Minister of Safety and Security v Tyulu 2009 ZASCA 55 SCA dated 27 May 2009, a** 48 year old magistrate was arrested on suspicion of being drunk in public when he walked to a nearby filling station to buy a soft drink. The police had been on the lookout for a person whom a witness, one Hendricks, had identified as being drunk while driving a vehicle. Tyulu denied being drunk while walking to the filling station and denied driving the vehicle at all. A medical report indicated that Tyulu's blood alcohol content was 0,23g per 100 millilitres, more than twice the legally permissible limit. Tyulu admitted having consumed six beers at home shortly before going to the petrol station. The charge that Tyulu was drunk in public was under section 154(1)(c) of the Liquor Act 27 of 1989 and section 40(1)(a) of the CPA was invoked. The drunken driving offence was in terms of section 40(1)(f) of the CPA. Hendricks eventually conceded that he was unsure whether the driver of the vehicle was indeed drunk. On appeal it was found that there was no reliable evidence to prove that Tyulu was found to have been drunk at all. The OPP declined to prosecute. Tyulu was released after 15 minutes in detention. He was awarded R15000,00 on appeal.

76. In **Minister of Safety and Security and Jonathan Daniels v Johannes Francois**

Swart 2012 ZASCA 16 SCA 22 March 2010, Johannes Swart ("Swart"), a sergeant of 16 years' standing, was arrested without warrant, under section 40(1)(b) of the CPA, by a co-officer, constable Jonathan Daniels ("Daniels"), from the same police station at De Dooms, on a suspicion of driving a motor vehicle on a public road while under the influence of intoxicating liquor. He spent four and one half hours in detention. The charge against Swart was withdrawn the following day after a blood test revealed that his blood alcohol limit was below the permissible limit.

77. The SCA found that the only basis for Swart's arrest was the evidence from Daniels that he smelt of alcohol and that Swart's vehicle had left the road and landed in a ditch. There was no evidence that he was unsteady on his feet, that his speech was slurred that he could not walk in a straight line or that his eyes were bloodshot. On the contrary, Swart appeared to have been in full control of his senses and spoke in a friendly and coherent manner. See paragraphs 21 and 22 of the judgment. His damages award of R50 000,00 was confirmed on appeal.

78. A significant case in which a claim for damages for unlawful arrest and assault and malicious prosecution was dismissed on appeal by a three judge bench of this division is **Minister of Safety and Security and another v Linda 2014(2) SACR 464 GP.** It was based on the arrest by Inspector Tinyiko Chauke ("Chauke"), an officer of 16 years' standing, of Mr Beka Linda, ("Linda"), without warrant, for murder, attempted murder, and rape on 11 August 2004. The arrest was based on the statements of three witnesses.

79. On 11 August 2004, the main witness, Ms Tinyiko Josephinah Mabasa ("Josephinah"), had told Chauke she knew nothing of the incident. Chauke obtained statements on 13 August 2004 from Mabasa's two relatives, Ms Vaidah Mabasa ("Vaidah") and Ms Constance Mabasa("Constance"). They confirmed that Josephinah had arrived home on 11

August 2004 wounded and told them what happened, but refused to identify her assailant. On 16 August 2004, on Josephinah's transfer to a hospital in Limpopo, she retracted her prior version and gave a detailed statement implicating Linda. Linda had raped her and while doing so, noticed another man watching them. Linda proceeded to shoot the man, (who was a previous boyfriend of hers), and the gunshot wounded her in her abdomen. She had witnessed the murder, was on the receiving end of attempted murder and had been raped. As correctly put in the **Linda** case, at paragraph 33, most right thinking people would have considered Linda, on the basis of this information, to pose a potential danger.

80. Linda testified in his damages trial that, on the morning of the day after his arrest, he had offered Chauke an alibi, namely, that he was at home that evening and had gone out to buy a chicken to cook for his grandmother. On his arrest, he had first exercised his right to silence.

81. At paragraph 35 of the **Linda** case, the Court pertinently noted:

> *" While an arresting officer may be expected to* assess *the information at his or her disposal critically before arriving at* a *reasonable suspicion, it would be wrong to demand an evaluation and determination on* a *balance of probabilities. As stated earlier,* a *suspicion by its nature arises early in an investigation; it precedes proof and may even be less than* a *prima facie case. It is for the court considering bail to weigh the probabilities, not the arresting officer.* "

82. In **Linda,** the DPP had declined to prosecute, no prosecution was conducted and the trial court correctly dismissed Linda's claim for malicious prosecution. See paragraph 4 of this judgment.

83. I turn to the facts in this case. I am mindful of the premise that the suspicion must be objectively reasonable but does not require certainty. It was explained in **Linda at**

paragraph 21 that suspicion

> *"inherently involves an absence of certainty or adequate proof. A police officer is not expected to satisfy himself to the* same *extent as* a *court. A suspicion can be reasonable despite there being insufficient evidence for* a *prima facie case. In* ***Shabaan Bin Hussein and others v Chong Fook Kam and others 1969 3 All ER 1626 PC at 1630,*** *the Privy Council said:*
>
> > " *suspicion in its ordinary meaning is* a *state of conjecture or surmise where proof is lacking, I suspect but I cannot prove. Suspicion arises at or near the starting point of an investigation of which the obtaining of prima facie proof is the end.* "

84. The critical question to be asked is whether Sekgothe had enough evidence at his disposal on 9 July 2010 to create reasonable grounds for arrest without warrant, which grounds were objectively sustainable. As demonstrated in the cases of **Jones, Tyulu, Olivier** and **Swart,** the grounds for arrest without warrant were tenuous at best, with a lack of reliable, independent corroboration in most instances. In casu, the complaint in E.'s statements was independently supported by a medical expert, and, together with the identification of Maffa by E. Sekgothe was reasonable in acting on this. As indicated in **Linda,** the evidence does not have to be sufficient enough to sustain a prosecution without further ado.

85. Sekgothe was a senior officer with twenty five years' experience in the police force and ten of those had been spent in the Unit which specialised in, inter alia, rapes against minor children. He was an impressive witness, his evidence being credible and coherent. He was well acquainted with the requirements of section 40(1)(b) of the CPA and knew that he had to have reasonable grounds for the arrest of Maffa. He knew that rape was a Schedule 1

offence, and he knew that some form of independent corroboration should be obtained in the form of medical evidence before any arrest took place. He presented as a competent and conscientious officer.

86. He based his decision to arrest Maffa on E.'s statement of what her three year old daughter had told her about Maffa's sexual molestation of her, on the contents of the medical report, the Form J88, which indicted penetration of the vagina, and on E.'s pointing out of Maffa as the "grandfather" of whom B. spoke when B. complained about what Maffa had done to her. He also mentioned the fact that B. had pointed out her grandfather at the time, albeit that he admitted that this was omitted from his statement. even assuming B. did not make the pointing out, this was more than enough evidence on which to base an arrest without warrant. Maffa was arrested on the evening of Friday, 9 July 2010, and brought to Court at the first available opportunity on the morning of Monday, 12 July 2010.

87. In this enquiry, the Court is required to have regard to the information available to the arresting officer at the time of arrest. Evidence which comes to light after this does not affect the question as to what was known to the arresting officer at the date of arrest. The officer has to balance incriminating facts against exculpatory facts. The incriminating facts, namely, E.'s first statement, the Form J88, and E.'s pointing out of Maffa as the "grandfather" of whom B. spoke, were cogent. Sekgothe denied that Maffa told him on the night of arrest to speak to T. in the adjoining bedroom. I am disinclined to believe Maffa on this allegation. Maffa makes no mention of this in either his warning statement or bail affidavit. To compound matters, Maffa, on his own version, took no steps to obtain a statement from T. himself.

88. The exculpatory facts were non-existent, apart from bare denials of guilt. Objectively

speaking, at no stage did T. ever give a statement, whether at her own behest, or via the police, or via Maffa's legal representatives. The latter omission being inexplicable considering that Maffa was legally represented at most of the hearings in the rape case, and that he continued to live together with T. until circa 2012, that is, for two years after the incident. No effort was made to inform the police about Baby's custody of B. on 5 July 2010, or about the existence of E.'s boyfriend.

89. Maffa's warning statement of 10 July 2010 makes no attempt to establish an alibi which could have been investigated by the police. He could have informed the police that B. was always in the company of T. and was never left with him alone. He could have mentioned that Baby had B. in her custody until midnight on 5 July 2010. He could have mentioned that E. had a boyfriend, Thabo Masemene, who should have been interviewed. He could have stated that he was working as a hawker during the relevant period leaving home at 07h00 and returning home at 19h00. Maffa also makes no mention of his allegation, in this Court, that Sekgothe had been in a romantic relationship with E. since 2009, and that Sekgothe had been seen in the area driving an Isuzu vehicle. Maffa also omitted to mention that Sekgothe suggested a bribe following Maffa's arrest, asking Maffa how much money he had. In his warning statement Maffa avers that he tried to explain but it "was all in vain". And yet the warning statement represented his golden opportunity to do so. Maffa proved an unreliable witness in several material respects.

90. He had another opportunity to exculpate himself in his bail affidavit, when he was legally represented by Mogale. He did not do so. On the objective facts, Maffa made no effort to co-operate with the investigation. He seemed to labour under the impression that negative DNA results would constitute absolute exculpation.

91. It is correct that, post arrest, no DNA evidence linked Maffa with the sample taken from

B.. Irefer to the report of 13 September 2010. Mnisi indicates in her report of 13 May 2011 that B. was unclear about her evidence, yet social worker Masebe says on 15 July 2013:

> *"Although the incident occurred in 2010 the child could recall what transpired. She* was *slightly uncomfortable talking about the incident. This* is *further aggravated by the fact that the accused* is *often seen in the neighbourhood."*

92. E.'s first statement contradicts her second statement in a material respect. In her first statement, she avers *"My child told me that her grandfather took something and put it inside her vagina and now its paining".* In her second statement she says: *" When asking her what happened she told me that her grandfather, referring to Johannes Mafa,* was *smearing her with medicine on her vagina."*

93. None of these facts derogates from the validity of the arrest of Maffa because this post-arrest evidence was unknown to Sekgothe on 9 July 2010, and formed part of a continuous investigation which would only reveal the relevant facts over the passage of time. They were patently not ascertainable at the date of arrest. By its very nature, the enquiry as to reasonableness in the decision to arrest at a moment in time is not one which takes account of events ex post facto.

94. For the reasons adumbrated above, I find that the arrest of Maffa on 9 July 2010 without warrant was lawful and that his case for damages on this ground falls to be dismissed.

95. I interpose to mention that the SCA in **The Minister of Safety and Security v Venter and two others 2011 ZASCA 42 SCA 29 March 2011** mentions the **duty** on a police officer to investigate a complaint of domestic violence and to collate all information in connection with it. This in terms of certain guidelines published by the Minister of Safety and Security. Where members of the Brakpan police station had not assisted in opening a docket relating to domestic violence against Christa van Wyngaardt's ex husband, one "Whitey", the Minister

was held liable for 75% of the damages suffered. The apportionment was due to the failure by the plaintiffs to obtain a common law interdict against Whitey. The harm occurred when Whitey arrived at her home with a crossbow and handcuffs and told her he was going to kill Venter with a crossbow. Whitey raped van Wyngaardt and found her boyfriend's gun at the house. Her boyfriend, Paul Venter, ("Venter"), on arrival at the house, was shot in the arm by Whitey and managed to escape. Whitey committed suicide two days after his arrest. It is trite law that this duty on the police is not confined to cases of domestic violence. In casu, Sekgothe carried a similar duty.

96. I turn to the evidence concerning the case for malicious prosecution. In this case, the Court is enjoined to have regard to the period between Maffa's first court appearance on 12 July 2010 and the date when the case was struck from the roll, being 30 September 2011. In the result, the Court needs to have regard to the information made available to the prosecution during this period.

97. The requirements of malicious prosecution as mentioned in **Minister for Justice and Constitutional Development and others v Moleko 2009(2) SACR 585 SCA at paragraph 8** are all of the following, namely:

a. The defendants set the law in motion by instigating the proceedings;

b. The defendants acted without reasonable and probable cause;

c. The defendants acted with malice or animus iniuriandi; and

d. The prosecution has failed.

98. It was established that the prosecution occurred at the instance of the NPA and that the role of the police was to gather information. This was corroborated by the evidence of Sekgothe and Letsholo.

99. I refer to the requirement of "reasonable and probable cause". I am satisfied that, between 12 July 2010 and 30 September 2011, the prosecution honestly believed that the proceedings were justified. The absence of DNA evidence, and the reservations made about B.'s reliability in Mnisi's report, did not serve to strengthen the case against Maffa. However, these facts cannot be viewed in isolation. Moreover, the absence of DNA does not entirely negate the prospects of a successful prosecution. Maffa gave no information of any exculpatory nature in his warning statement (or bail affidavit) despite the fact that he did not decline to make a statement at all. He simply gave a bare denial, while rather expediently alleging that nobody would listen to him, and without affording the police the opportunity to investigate what turned out to be his defence to the charge when this action came to trial in October 2016. In **Olivier,** the Court attached weight to the fact that an exculpatory statement was given by Olivier on arrest, in finding that his arrest was unlawful.

100. To aggravate matters, Maffa was found culpable of breaching his bail conditions in the rape case by going to E.'s home and intimidating her. The Court which revoked his bail, after a full hearing, was sufficiently satisfied that Maffa had interfered with an important State witness. Maffa has claimed no damages for the period he remained in custody as a consequence, namely, from 31 August 2010 until 30 September 2011.

101. Letsholo was insistent that the case remained prosecutable but had not been pursued because of the unknown whereabouts of the complainant. Sekgothe corroborated this evidence. The case was struck from the roll because the police docket had gone missing and for no other reason. Since the striking off of the case, the report of Masebe had come to light in which she had indicated that B. had a proper recollection of events. The material contradictions in E.'s statements were, however, cause for circumspection, but the contents of the second statement did not entirely retract the contents of the first. There remained

the suggestion of sexual molestation of some sort on Maffa's part, a competent verdict in a rape case. There was no evidence that the NPA has declined to prosecute.

102. Concerning the element of malice, I found no evidence to substantiate this requirement. I am influenced in this regard by the circumstances of Maffa's arrest and of the nature of the evidence obtained against Matta during the overall investigation. I found a measure of negligence in the failure of the police to obtain statements from T. and possibly Baby, and possibly E.'s boyfriend, but this falls short of animus iniuriandi. There were several investigating officers in the matter, and this may have resulted in further neglect. In any event, Maffa could have secured T.'s statement even more readily than the police, based on his relationship with her and the fact that their relationship continued even after the incident.

103. In the final analysis, therefore, Maffa has failed to discharge the onus of proving a case for malicious prosecution. In argument before me, Counsel for the defendants indicated that the defendants did not persist in claiming a costs order if the plaintiff was unsuccessful, owing to his apparent indigence. I accept this concession.

104. The following order is granted:

a. the plaintiff's action against the defendants is dismissed;

b. each party shall pay its own costs of suit.

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T BRENNER

ACTING JUDGE OF THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

Appearances

For the Plaintiff: Advocate T Moretlwe

Instructed by: Mahlangu Mashoko Inc Attorneys

Counsel for Defendant: Adv MM Mokodikoa-Chauke

Instructed by: The State Attorney