

IN THE HIGH COURT OF SOUTH AFRICA  
(WESTERN CAPE HIGH COURT, CAPE TOWN)

CASE NO:

627/2011

5 DATE:

20 JANUARY 2011

In the matter between:

NIZAAM COE

Applicant

10 and

THE MINISTER OF SAFETY AND  
SECURITY

1<sup>st</sup> Respondent

15 THE NATIONAL COMMISSIONER OF  
POLICE

2<sup>nd</sup> Respondent

THE PROVINCIAL COMMISSIONER OF  
POLICE: WESTERN CAPE

3<sup>rd</sup> Respondent

20 THE STATION COMMANDER:  
CLAREMONT POLICE STATION

4<sup>th</sup> Respondent

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J U D G M E N T

DESAI, J:

30 This appears to be a business dispute which has resulted in  
accusations of criminal conduct and, ultimately, criminal  
charges. What causes considerable concern herein, is the

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apparent abuse of power by certain local police officers. That abuse, or at the best for them gross arrogance, has resulted in the respondents, in effect the tax payer, having to foot the costs of these proceedings.

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Moreover, a judge had to be summoned on an urgent basis on a Friday, that is 14 January 2011, at eleven o'clock the night, that is 23:00, to deal with this matter on an urgent basis. Had it not been for the expertise and persistence of applicant's attorney, Mr Mushtak Parker, the consequences would have been considerably more severe for the applicant.

The applicant himself was arrested in unnecessarily embarrassing circumstances at a holiday resort. All of this based upon rather unbecoming police conduct.

It is not necessary to make this order final, because at this stage the charge has been joined onto other charges in another charge sheet. In effect this rule is no longer strictly necessary.

As a consequence of the enormous costs that were sustained by the applicant to get himself out on Friday in circumstances where he should not have been arrested in the first place and, the Court notes with disapproval, the apparent misconduct of

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the police officers concerned, it is directed that these proceedings in their entirety be typed and presented to the Commissioner or Acting Commissioner of the Police, Western Cape, for further investigation.

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The rule in this matter is discharged and the respondents are ordered to pay the taxed or agreed costs of the applicant, the one paying, the others to be absolved.

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DESAI, J

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