

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

**CASE NO: SS 40/2006**

**THE STATE**

**v**

**PORRITT, GARY PATRICK**

Accused no. 1

**BENNET, SUSAN HILARY**

Accused no. 2

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**SUMMARY - SECTIONS 167 and 186 OF CPA (COURT CALLING WITNESSES)**

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**SPILG, J:**

***CRIMINAL PROCEDURE- ss 167 and 186 (COURT CALLING AND EXAMINING WITNESSES)***

- *Accused sought an order that the court subpoenas and examines witnesses under ss 167 or 186 of the CPA in respect of the existence or last known whereabouts of the original plea and sentence agreement concluded by the first state witness (Mr Milne) at his trial and the original of his charge sheet. The accused also wished to interpose the evidence of these witnesses before commencing with Milne's cross-examination*
- *.Court satisfied that the documents attached to a supplementary affidavit filed by the accused contained the text of the plea and sentence agreement that was actually handed up by Milne and accepted by the presiding magistrate. So too the charge sheet that was attached to the agreement. Effectively the accused's supplementary affidavit admitted as much and at the hearing they tried to make out a different case.*
- *Court satisfied that although the documents attached may only contain the original text prior to signature by Milne they could be admitted into evidence as exhibits*
- *Question raised of whether there are any circumstances which can arise when an accused may be ordered to pay the costs of a frivolous application where the State has engaged private counsel.*