



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA
MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF
APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 24 June 2025

Status: Immediate

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The Minister of Police and Another v Ramabanta (511/2024) [2025] ZASCA 95 (24 June 2025)

Today, the Supreme Court of Appeal (SCA) dismissed an application for reconsideration, in terms of s 17(2)(f) of the Superior Courts Act 10 of 2013 (Superior Courts Act), of an order, issued by two judges of the SCA denying a petition for special leave to appeal. The petition was lodged by the National Director of Public Prosecution (the NDPP) against the judgment and order of the Free State Division of the High Court, Bloemfontein (the high court).

The respondent, Mr Khotso Julius Ramabanta (Mr Ramabanta) instituted action against the applicants for damages arising from his arrest on 27 February 2019 and subsequent detention until 20 March 2019, when the charges against him were withdrawn by the prosecution. The high court sitting as a trial court dismissed the claims, finding that the arrest was lawful under s 40(1)(b) of the Criminal Procedure Act 51 of 1977 and that there was no evidence of malicious prosecution. The application for leave to appeal was also dismissed. The matter then went on petition to the SCA, whereafter that Court granted leave to appeal to the full court of the same division. The full court upheld the appeal and made an award of R70 000 against the Minister of Police, the first applicant and R650 000 against the NDPP. It was because of this order that the NDPP petitioned the SCA.

The NDPP argued that the refusal of special leave to appeal should be reconsidered because the full court had fundamentally misapplied the legal principles governing malicious prosecution. The NDPP contended further that the prosecutor had reasonable and probable cause to prosecute due to the evidence suggesting Mr Ramabanta's involvement in a shooting under the doctrine of common purpose, particularly since Mr Ramabanta was identified alongside two other suspects and initially failed to disclose his passport or provide an exculpatory statement during investigations.

The NDPP, expressed that the prompt withdrawal of charges upon production of the passport demonstrated prosecutorial diligence as opposed to malice. Furthermore, the NDPP challenged the full court's award of R650 000 in damages as grossly disproportionate to comparable cases, citing precedents where significantly lower amounts were awarded for similar or more egregious detentions. To this, the NDPP contended that exceptional circumstances existed that

justify the application for leave to appeal, and that a grave injustice would occur if it was not granted. Further, the NDPP argued that this case raised important legal issues pertaining to the interpretation of s 42 of the National Prosecuting Authority Act 32 of 1998 (the NPA Act), that otherwise there would be no certainty with regard to what is prosecution taken in good faith or with *animus iniuriandi*.

Mr Ramabanta argued that the application for reconsideration of the refusal of special leave to appeal should be dismissed, as the NDPP had failed to demonstrate the ‘special circumstances’ warranting a further appeal to the SCA. He added that the NDPP’s belated attempt, to frame special circumstances around the interpretation of s 42 of the NPA Act and the quantum of damages was unpersuasive, as the full court had, according to him, properly applied common law principles of malicious prosecution without needing to engage with statutory immunity. On the merits, Mr Ramabanta contended that the NDPP lacked reasonable and probable cause to prosecute, as demonstrated by the complainant’s statement, which clearly identified a Rorisang, Mr Ramabanta’s brother, not Mr Ramabanta, as the shooter, with no evidence implicating Mr Ramabanta in common purpose. Regarding damages, Mr Ramabanta contended that the R650 000 award was proportionate to the injuries suffered by himself.

In assessing whether the NDPP had demonstrated exceptional circumstances for granting of special leave to appeal, the SCA found that the NDPP’s attempt to present the case as involving exceptional circumstances, by invoking the interpretation of s 42 of the NPA Act and the quantum of damages, was not persuasive. The SCA found further that the full court’s findings on malicious prosecution were based on an assessment of the prosecutor’s conduct, including the lack of reasonable and probable cause and the belated withdrawal of charges, which undermined claims of good faith. On the issue of the damages awarded, the SCA held that while substantial, the damages were not so out of line with comparable cases as to suggest a manifest injustice. The Court highlighted that the NDPP’s reliance on cases they deemed comparable was misplaced, as those cases involved shorter detentions and less severe consequences, whereas Mr Ramabanta’s 22-day detention and the circumstances surrounding it justified a larger award.

The SCA in light of the above found that the NDPP had failed to demonstrate exceptional circumstances warranting reconsideration of the dismissal of the petition for special leave to appeal. It underscored that the NDPP’s arguments largely rehashed the merits of the case and did not establish that the refusal of leave would result in a grave injustice or disrepute to the administration of justice. It found further that the full court’s decision was neither irrational nor misdirected, and that the damages award, while high, were not so disproportionate so as to justify intervention.

In the result, the application for reconsideration, in terms of s 17(2)(f) of the Superior Courts Act was dismissed.