

Case number: 438/19 450.19

IN THE MATTER BETWEEN:

MAPULE AGNES SEUOE

PLAINTIFF

Buyiswa beauty majola

and

MINISTER OF POLICE

DEFENDANT

**PRE-TRIAL MINUTES AND ORDERS:
SECTION 54(2) OF THE MAGISTRATES' COURTS ACT, 1944**

The following is a recital of the proceedings of a conference held between the parties and/or their representatives:

1. DATE AND TIME

1.1 Date: 9 DECEMBER 2019

1.2 Time of set down: 9H00

2. PERSONS PRESENT

2.1 Magistrate: C. REYNEKE

2.2 For Plaintiff: MR t KUMALO

2.3 For Defendant MR C JOSSIE

3. PLEADINGS

Are the pleadings closed? YES

4. THE NECESSITY OR DESIRABILITY OF AMENDMENTS TO THE PLEADINGS

4.1 Does the summons disclose a cause of action?

Does the plea disclose a defence that is good in law? 3.1 Mr Jossie :Matter 450 / 19 --- see plea paragraph 3, reference to section 40 (h) –we will probably have to amend but do not have the file, as the matters were consolidated. But Mr Jossie will be the one to conduct the matter. Thus not ready for pre-trial.

5. SETTLEMENT

Is there a possibility for settlement? None.

6. SIMPLIFICATION OF ISSUES

6.1 Plaintiff's version:

They were arrested for robbery, : they demanded keys of a school from a care taker of a school, they grabbed the keys and then prevented the learners from entering the school by locking the gate of the school. They were released from court at approximately 13h00. We cannot confirm the time of release.

6.2 Defendant's version:

We agree that there was an arrest for robbery, but allege the arrest and detention was lawful.

7. DISPUTES:

7.1 What aspects are in dispute? Lawfulness of arrest and detention and quantum.

7.2 Can these aspects in dispute be resolved without the hearing of evidence?

No.

8. COMMON CAUSE:

8.1 What is common cause between the parties?

The arrest was at 10h10, on 5 November 2018.

They were arrested by IO Molefe.

They were detained at Vanderbijlpark police cells.

On 6 November 2018 they were taken to court.

The matter was nolle prosequi on 6 November 2018.

The jurisdiction and locus standi is admitted.

The section 3 of Act 40 of 2002, notification to Organ of State was complied with.

9. ISSUES WHICH SHOULD BE DECIDED SEPARATELY

_____ Nothing. _____

10. POINTS IN LIMINE

Are any points *in limine* to be raised at the trial?

_____ None

11. DOCUMENTS

11.1 Has discovery taken place? Yes.

11.2 Are there any further documents that could usefully be placed before the court?

Affidavit by the complainant: The parties have agreed that the authenticity of the documents that have been discovered is not in dispute, including the Notice of right, SaP 14 & SAP 10. not in dispute.

Is it necessary for the parties to prepare a bundle of documents which are likely to be referred to at the trial?

Plaintiff will prepare the bundles, and Def will supplement where necessary.

12. DUTY TO BEGIN AND ONUS OF PROOF

12.1 Defendant/ has the duty to begin.

12.2 The //Defendant bear the onus in respect of the lawfulness of the arrest.

15. WITNESSES:

15.1 How many witnesses do each party intend to call?

Plaintiff 2 Defendant 2

Who are the witnesses?

2 Plaintiffs, IO Molefe and his crew, name now unknown.

15.3 Are all the witnesses available?

Yes.

15.4 Are the parties prepared to exchange witness statements?

Defendant's statements are available.

16. CASE LAW

Upon what cases or legal authority does each party rely?
Will be submitted on the heads.

17. INTERPRETORS

Sotho

18. ADDITIONAL MATTERS

19. ORDER IN TERMS OF SECTION 54(2)

The court makes the following order(s):

- a.

- b.

- c.

- d.

- e.

20. CERTIFICATION

The court certifies the matter as trial ready.

21. ADDITIONAL ORDERS: TRIAL DATE

21.1 The matter is postponed to _____ for trial.

21.2 The plaintiff/applicant must ensure compliance with Rule 63(3).

22. DURATION OF THE CONFERENCE

20.1 Time meeting commences: _____

20.1 Time meeting adjourns: _____

SIGNED AT VANDERBIJLPAR ON THIS _____ DAY OF _____ 20____.

MAGISTRATE