

JAISON MAX KORERAI MACHAYA
and
CECILIA CHITIYO
and
SHEPHERD MARWEYI
and
MATILDA MANHAMBO
and
CHISAINYERWA CHIBURURU
and
ETHEL MLALAZI
and
HONESTY MAGAYA
and
RHORY ANDREW SHAWATU
versus
THE STATE
and
SIBONGILE MSIPA – MARONDEDZE REGIONAL
MAGISTRATE N.O

HIGH COURT OF ZIMBABWE
CHITAPI J
HARARE, 2 April, 2019 and 14 June 2019

Urgent Chamber application for stay of proceedings pending decision on review

A. Muchadehama, for the applicants
E. Mavuto, for the 1st respondent

CHITAPI J: This is an application for an order of stay of criminal proceedings pending before the second respondent. The order sought is in the nature of a provisional order returnable for confirmation on the return date. The provisional order and the final order sought are similar. On the return date the applicants simply want the court to confirm the provisional order.

“TERMS OF THE FINAL ORDER SOUGHT
IT IS ORDERED THAT:

1. Criminal proceedings against the Applicants under CRB-GWP 1253-4/18 be and are hereby stayed pending the outcome of the application for review in Case No. HC 1994/19
INTERIM RELIEF GRANTED

IT IS ORDERED

1. Pending the confirmation or discharge of this provisional order, criminal proceedings against Applicant under CRB GWP 1253-5/18 be and are hereby stayed.

The provisional order is faulty. There is nothing new to confirm. Once the provisional relief is granted staying the continuance of criminal proceedings against the applicants pending the determination of their review applications, the effect of such an order is that the main relief will have been granted. To return to court for confirmation does not make sense because the court will be asked to simply repeat itself or endorse what it previously stated. This is a waste of time and amounts to an exercise in futility.

The error committed by the applicant's legal practitioners in drafting the provisional order emanates from a failure to comprehend the purport of r 244 and 246 (2).

In the case *Balasure Alloys Ltd v Zimbabwe Alloys Ltd and Ors* HH 228/18, the court had occasion to discuss the purport of r 244 and 246 (2). I need to emphasize that there is nothing in the rules or in practice given the original jurisdiction of this court in all civil and criminal matters as given in s 171 (1) (a) of the Constitution to debar the court from granting a final order in an urgent application. The facts and circumstances of each case will inform the court as to the nature of the order to grant. However, in deference to the *audi alteram partem* rule, the court or judge if inclined to grant a final order would need to invite interested and affected parties to make any representations which they may wish to before the grant of the order. Rule 246 (2) covers situations in which the applicant has applied for a provisional order returnable to court. The provisional order is granted as prayed for or as varied. In order to protect affected parties from loss or damage which may be caused by the order, the court may order that the applicant provides such security as the judge may determine. Not all applications brought on an urgent basis are for a provisional order. For example an application for a spoliation order is not returnable to court for confirmation.

In *Samukeliso Mabhena v Edmund Mbangani* HB 57/18, MATHONSI J, disagreed with the applicants' contention that there was nothing in the rules to preclude an applicant in an urgent application from seeking a final order. The learned judge referred to 246 (2) which

obliges the judge to grant the provisional order as sought or as varied if the papers establish a *prima facie* case. The learned judge further stated:

“It is a well established practice of this court that in an urgent application the court grants interim relief and not substantive or final relief. It does so because the rules do not call on applicant to prove its case but merely a *prima facie* case. In this regard, a practice has evolved wherein an urgent application is accompanied by a provisional order for the judge to consider granting interim relief. The substantive or final relief is then considered on the return date of the provisional order.”

I am in agreement with the reasoning of MATHONSI J. It must however be noted that the learned judge was dealing with applications in which a provisional order would have been sought as provided for in r 246 (2). The point which I make however is that there is no rule which provides that every urgent application should be accompanied by a provisional order. Indeed r 244 is clear in this regard and provides that the judge to whom an urgent application is submitted “shall consider the papers forthwith”. The proviso to r 244 provides that the judge may direct that interested parties are invited to make representations on the urgency of the matter. (own underlining).

It however appears to me that another practice has evolved in this court whereby the respondents are as a matter of course served with urgent applications. They are then given the opportunity to address the judge not only on the urgency of the matter as postulated in the proviso to r 244 but are allowed to respond to the merits of the application. The return date is intended to allow the respondents time to respond to the application on the merits. Form 29C is clear in this respect. It presupposes that the respondents did not address the merits of the application. The respondent is given an opportunity to do so including being given leave to anticipate the return date in the event that the respondent can show good cause to justify that the matter be heard earlier than what the normal court time times allow.

What needs to be interrogated is a simple question. If the respondent addresses the merits of the urgent application as opposed to addressing only on the urgency of the application as provided for in r 244 is the judge not placed in a position to determine the matter on a balance of probabilities. The respondent in practice now usually responds on the merits on affidavit including annexing supportive or corroborative evidence. The judge would therefore be placed in a position to determine the urgent application on balancing the two sides and the probabilities taking into account the respondents’ response on the merits. Other

than the absence a reply and of heads of arguments, which pleadings are sometimes filed by the parties by the time the application is dealt with, the urgent application in such a case would be no different from an ordinary application. I do not find any rationale for then not to make a final order in such circumstances. It is either, the judge must limit the respondent to only address on whether or not the application is urgent and leave the applicant to establish a *prima facie* case without rebuttal by the respondent, or if the respondent is allowed to address the merits, the application will have gone outside the ambit of r 244 in the proviso thereof and r 246 generally. I would therefore respectfully hold that where in an urgent application made in terms of r 244 rules 246, the respondent addresses the merits of the application thus placing the judge in a position to determine the application on a balance of probabilities after considering and weighting the applicant and respondents' affidavits on the merits, the rationale for granting a provisional order returnable to court for argument falls away. One would not expect that the respondent will respond differently on the merits and certainly it would be improper to afford the respondent a second bite of the cherry and build further on the grounds for opposition on the merits. The respondent must take a position to either only address the issue of urgency as postulated in the proviso to r 244 and reserve addressing the merits for the return date in the event that the judge grants the provisional order or elect to address the merits as well, thereby compromising the right to again respond to the merits on the return day as it would cease to make sense to order parties to return to court.

Lastly on the above issue, r 4C provides for "Departures from rules and directions as to procedure". In particular, rule 4C (b) provides that:

"The court or a judge, may in relation to any particular case before it or him as the case may be -

(a)

(b) Give such directions as to procedure in respect of any matter not expressly provided for in these rules as appears to it or him, as the case may be, to be just and expedient."

In my reading of rr 244, 246 and 247, there is no provision for the respondent in an urgent application brought in terms of the cited rules to address the merits of the application as in a fully-fledged opposed application. At best the judge before whom the application has been placed for consideration may exercise the discretion to invite the respondent as an interested party and indeed any other interested party "to make representations, in such

manner and within such time as the judge may direct, as to whether the application should be treated as urgent.” Once the respondent addresses the merits beyond urgency, then, it must be held that such procedure is not expressly provided for in the rules. The judge is empowered to give directions as may be expedient in the interests of justice to best determine the application. In this regard parties are often asked to address the court on whether given that the respondent has utilized the opportunity given to address the merits, any purpose would be served by the issuance of a returnable provisional order or the judge simply either grants a final order or dismisses the application as the judge may determine.

In this application Mr *Mavuto* did not file any opposing papers. He however submitted that he was in a position to make oral argument and would dispense with the need to file a formal opposing affidavit. I asked Mr *Mavuto* whether he would be addressing the issue of urgency only as postulated in the proviso to r 244 or the merits as well. Mr *Mavuto* indicated that he would submit on the merits as well. When I sought the views of both Messrs *Mavuto* and *Muchadehama* whether if Mr *Mavuto* addressed the merits, there would be any need for the matter to return to court, counsel agreed that such need would not arise and that the determination I would make would be final. The hearing was convened on this understanding following which I reserved judgment. I advised counsel that I needed to consider the bulky record of proceedings and to also express my views in a judgment on the purport of rr 244, 246 (2) and 247 of the High Court Rules in relation to the granting of a provisional order where the respondent has argued the merits of the matter as opposed to granting a final order. In order to regulate what would become of the applicants’ trial in the interim I provisionally stayed its further continuance pending my judgment. For the reasons I have given on the propriety of granting a final order where the respondent has gone further to address the merits of the application as opposed to the urgency of it only, this judgment is final. I also note that even if I may be wrong in my interpretation of the applicable rules, counsel in any event agreed that I grant a final order.

The circumstances or background to this application is that the 8 applicants were charged with 23 counts of Criminal Abuse of Duty as defined in s 174 (1) of the Criminal Law (Codification & Reform) Act, [*Chapter 9:23*]. The applicants during the period of the alleged commission of the offences, being January, 2005 to April, 2013 were said to be public officers in the employ of Government stationed in the Midlands Province. The first

applicant was the Governor and Minister for Provincial Affairs, the second applicant the Provincial Administrator and the rest high ranking officials whose duties included State land allocations. The general thread of the charges preferred against them without singularising them was that they acted contrary to, or inconsistent with their duties as public officers for purposes of showing favour to a number of listed land developers, church and other organisations by unlawfully designing, approving lay out plans, allocating state land, disposing of commonage stands, processing survey instruction letters and processing valuation letters in regard to listed state land. In short, the applicants are alleged to have dealt in State land without the authority of the Minister of Local Government Public Works and National Housing who is presented in the state allegations as the “sole responsible authority for allocating state land.” The State land in question upon a perusal of the charges fell within the districts of Gweru, Zishavane and Shurugwi.

The applicants appeared before the Regional Magistrate at Gweru on 18 January 2019 to answer the charges. On that date, the trial did not commence. Counsel for the applicants applied for the trial to be postponed on account of them not having fully prepared for trial because the applicants had not been furnished with a number of State papers which counsel required to prepare for trial. At least one counsel Mr *B Dube* for second applicant was not available. There were about 5 counsels in all. A protracted and contested application for postponement followed. The second respondent relying on the case of *S v Ndabaningi Sithole* 1996 92) ZLR 593 in which the court held that the accused is entitled to witness statements in the police dockets ruled in favour of the applicants and ordered the prosecuting team to furnish applicants’ counsel with all information they required to adequately prepare their defences for trial. The trial was postponed to 4-8 March 2019 for trial commencement.

I must in passing express my disquiet at the manner that the trial was handled and in its failure to take off. There was lack of pre-trial consultations between the State and defence counsel. In trials which are as involved as the one *in casu*, where there would be multiple charges and multiple accused persons, the prosecution and defence counsels should avoid having to meet for the first time on the day of trial. Pre-trial meetings at which the counsel would have discussed exchange of documents required for trial should have been convened. For counsel to appear on date of trial to seek a postponement on the basis that the State counsel did not supply counsel with a warned and cautioned statement or any other

document on time speaks to a want of professionalism on the part of counsel. Equally, the prosecutor does not escape the criticism of unprofessionalism because it would be expected that prior to trial, the prosecutor would have requested the defence counsels to provide defence outlines if it was intended that the accused would testify or to indicate that accused will not testify or elect to remain silent. One wonders how without prior engagements amongst counsel, the prosecution would decide on which witnesses to call. A criminal trial is not a game of hide seek. The State must be open to the defence by advising of the evidence to be led and documents to be produced. Equally the defence should if it intends to lead evidence do likewise. A hide and seek approach is inimical to sound justice. The attitude or approach to case management whereby witnesses are called *en masse* only to be excused because their evidence is not considered necessary should be avoided not only because of the inconvenience it causes to the witnesses but bringing unnecessary witnesses to court causes financial prejudice to the *fiscus* since witness expenses are a charge on State funds. This happens when there is no pre-trial consultations. *In casu* two witnesses who had travelled from Harare travelled for nothing and had to go back. The witnesses included Ringson Chitsiko, permanent secretary. The practice of postponing trial due to poor planning and case management brings the criminal justice system into disrepute. The Regional Court is the highest court within the magistrates court system. Proceedings in that court should reflect the serious nature of the cases which are brought to that court. It should not be just another day in court for counsel and accused persons who appear in that court. In terms of s 171 (1) (b) of the Constitution, the High Court. “has jurisdiction to supervise magistrates courts and other subordinate courts and to review their decisions”. It is on the basis of the supervisory powers which this court has over the lower courts that I considered it appropriate to express a supervisor’s disquiet over human fault in causing this case not to commence.

Reverting to the conduct of the trial, when the matter resumed on 4 March, 2019, the defence counsel led by Mr *Muchadehama*, counsel for first and fifth applicants made an application for permanent stay of prosecution. Other counsel’s associated themselves with his submissions. The gist of the application was that the applicants fundamental rights would be infringed if the trial was allowed to continue. The applicants relied on s 85 of the Constitution as reads with s 167 A of the Criminal procedure and Evidence Act, [*Chapter 9:07*]. The latter section enjoins the court to investigate any delay in bringing an accused to trial or to

complete proceedings where the delay appears unreasonable and where the delay could “cause substantial prejudice to the prosecution, to the accused or his or her legal representative, to a witness or other person concerned in the proceedings or the public interest. The provisions of s 167 A (2) lists a number of factors which the court must consider in the investigative process. Section 167 A (3) lists the nature of the orders which the court may grant in addition to any other appropriate order which the court may grant. One of the orders which the accused person may pray for as did the applicants in this case is that provided for in s 167 A (3) (b) (iii). In terms thereof the court may order “that the prosecution of the accused for the offence be permanently stayed.”

To support the application, the applicants argued that their right to a fair trial was being violated because they were only arrested in 2018 for offences allegedly committed in 2004. It was further contended on their behalf that some of the applicants were not even working in the Midlands Province in the period covered by the charges. Without going into detail on the application since it is the subject of a review case which is pending before this court, it suffices to note that the second respondent dismissed the application. The second respondent in a brief judgment reasoned that issues raised by the defence counsels were triable issues in which witnesses would have to testify. She ruled as follows in the operative part:

“...From the application by the defence counsels for the accused persons, the court is satisfied that there is no constitutional question to be referred to the Constitutional Court for its determination. Having stated the above reasons the court is satisfied that these applications by the defence counsel for accused person is frivolous and vexatious. It has no merit and is done to delay the trial proceedings in this case.
In the circumstances the application is hereby dismissed.”

I am constrained to state that there appears to be some confusion in the judgment because reference is made therein to the applicants having made application in terms of s 167 A of the Criminal Procedure and Evidence Act. If that be so the question of referral of the matter to the Constitutional Court does not arise. The court acting in terms of s 167 A carries out an investigation on the delay and must give an appropriate order which in terms of s 167 A (3) would be subject to appeal by the Prosecutor General if it is in the nature of an order for a permanent stay of prosecution. I will however leave it at that being again mindful

not to express comments or make finding which would materially impact on the review application still to be determined.

The applicants' counsel consequent on the dismissal of their application next applied for a postponement of the case to allow them time to file applications in this court for review of the second respondents ruling and a concomitant application for stay of the continuation of the trial proceedings before the second respondent pending the determination of the review application. The latter application is the one before me and subject of this judgment. The application for postponement was opposed by the State counsel who argued that the applicants did not demonstrate that there were reviewable issues arising and that the applicants' recourse was to note an appeal. It is however not necessary for me to delve into the further merits of what was argued before the second respondent because the second respondent in fact determined the application made before her and stayed the proceedings maybe unwittingly.

The second respondent in his ruling stayed the proceedings to allow for the filing of the application for review. In the ruling made on 5 March, 2019 which was Tuesday, the second respondent postponed the trial to "Thursday" which would be on the 7th March to allow the applicants' counsel to, in the second respondent's words, "show that he is doing something." The short ruling states:

“BY COURT

Its okay that is why I said maybe for review at least he must give us something that (sic) to show that he is doing something. If the one the urgent chamber application will take longer there is no problem but as long as on Thursday he is back to show us that he has already served the High Court with these applications for review that is what I want. Then if you are agreeable that High Court is very busy or whatever then to agree on a date as long as there is proof they are doing something because we may say come back on the 14th then these guys just abandon everything then at the end of it or it will us (sic) to blame. So Thursday review stamped by the High court of the Registrar (sic) indicating that they are going to argue their matter will be enough. Then we agree on the next date for their application for the stay

BY THE STATE

Yes your worship i do agree with you now. I understand. Thank you very much.”

The above captured what the second respondent had to say before she advised counsel that she would not be coming back for purposes of further remands. I assume that she must have been seconded to deal with the case from another regional division.

The view I take of the matter is that the second respondent stayed the proceedings before her in order to allow the applicants' to file for review of her decision. She gave time limits for the filing of the application. The applicants filed the application for review as indulged by the second respondent and the application is pending determination under case No. HC 1994/19. A court should not stay proceedings to allow for the filing of the review of its order unless it considers that the proposed review application enjoys some prospects of success. I have to assume that in staying the proceedings for that purpose by way of postponing the trial to allow for the filing of the review application, the second respondent considered that the proposed review application had merit. I am fortified in reasoning that the second respondent considered the merits of the proposed application for review because she stayed or postponed the trial after hearing full and protracted arguments by both the defence and State counsels on the issues which the Defence intended to argue on review. The magistrate was referred to case authorities which propound the undesirability of having this court interfere in on-going uncompleted proceedings in inferior courts save for special reasons where a miscarriage of justice would result see *Attorney General v Makamba* 2005 (2) ZLR 54 (S). She postponed the trial in full knowledge of what the superior court practice is in regard to review of ongoing proceedings.

It must be observed that in terms of the provisions of ss 165 and 166 of the Criminal Procedure & Evidence, the second respondent was within her powers to postpone or adjourn the pending criminal trial of the applicants if she considered it necessary or expedient to do so and to impose such terms as appeared to her proper in regard to the postponement of the trial and any further postponement thereafter. If as happened in this case, the second respondent postponed the trial of the applicants to allow them time to file a review application of the second respondent ruling, then so be it. It was within her powers to do so. It would not make sense nor would it be logical to reach any other conclusion than that the purport and effect of the second respondent's decision was that the trial would only proceed consequent on the decision which would be passed on review.

In my judgment, the filing of the present application for stay of proceedings may have been filed *ex abundanta cautela* by the applicants. It is however superfluous because the second respondent ordered a stoppage of the trial pending the filing of the review application. To then petition this court to further stay the same trial pending the determination of the

review application was in the circumstances of this case unnecessary. Once the second respondent had dismissed the defence applications for a permanent stay of prosecution and/or referral to the Constitutional Court as happened, she should have ordered that the trial should proceed. She was advised of the applicant's desire to file for review and was requested for a postponement for the purpose of the filing of that application. The second respondent obliged. That was it. The order she made stands. The trial remains postponed until the review application is determined.

Before I endorse the order which follows on my judgment, there is a matter which I must comment upon. This court has of recent been inundated with applications for review of uncompleted proceedings in the magistrates court. The filing of the applications has been viewed in some quarters as a ploy to delay trials or finalization of ongoing and pending trials. The filing of review applications at any stage of the criminal proceedings is permissible at law. It is part of due process in the application of the rules of procedure. The rule of law must be observed. What the courts have done is to adopt an attitude or approach which allows for and observes the need for the criminal justice to flow by not unnecessarily interfering in uncompleted proceedings. The rationale for the approach is legally sound. The inferior courts are established by law to determine cases placed before them to finality. The approach of this court should therefore be to respect the complete exercise of jurisdiction by those courts and to exercise review and appeal powers after the conclusion of the proceedings. There is a plethora of cases in this and other jurisdictions which provide that this court will not intervene in uncompleted proceedings save in exceptional circumstances where an injustice which cannot be redressed by other means in due course may otherwise result: See *Attorney General v Makamba (supra)*; *Matapo & Ors v Bhila N.O and Anor* 2010 (1) ZLR 321 (H); *Dzinga Navhunjire v S* HH 169/17; *Ndlovu v Regional Magistrate, Eastern Division & Anor* 1989 (1) ZLR 264, *Masedza & Ors v Magistrate Rusape & Anor* 1998 (1) ZLR 36 (H0, *Lee Waverly John v S & Anor* HH 242/13, *Levi Nagura v Mazhanje & Anor* HH 227/18, *Garikayi Mberikwazvo v Magistrate Kadoma & Prosecutor General* HH 195/18.

In South Africa the courts follow the same approach as in this jurisdiction in that superior courts will not interfere in unfinished proceedings of lower courts unless a grave injustice may result. See *S v Masiya & Ors* 2013 (2) SACR 363 and *Motata v Nair N.O & Another* 2009 (2) SA 595 (T) where it is stated as follows at para 9:

“It is trite that as a general rule, a High Court will not, by way of entertaining an application for review, interfere with uncompleted proceedings in a lower court.”

It follows that it is only in special or exceptional cases therefore that a departure from the general rule may be justified.

The next point which arises following up on the above is “if the High Court will only intervene in uncompleted proceedings as an exception” is the High Court holding on to or delaying the determination of the review application? The answer is no. A review brought by the accused is in the nature of a civil application. The rules relating to court applications apply in terms of the sequence and time limits for filing pleadings which are a prerequisite for the application to be heard. The rules of court are drafted in such a manner that the process of bringing a case to set down is party driven and not court driven. In other words, if an application is filed and parties do nothing about it, then it remains unactioned. The judge does not go about tracking an application and how the parties are managing it.

No blame for should be attributed to the High Court where parties do nothing to further their cases because of the party driven nature of the litigation system. I want to suggest however that where a trial has been postponed or stayed pending a decision on review, the presiding magistrate should not just perfunctorily continue to postpone the trial pending a decision on review. The magistrate should actively enquire into and endorse on record the progress of the matter on review by enquiring of the accused and the prosecutor on the active steps being taken to have the review application determined. In this way the trial court will at least appreciate that the review application is being pursued.

The State prosecutors should in this regard also not be docile but should actively follow up on the application and place the applicant (accused) on his or her toes to prosecute the review application or have it dismissed. If I take for example the review application HC 1994/19 filed in this case, the application was filed on 11 March 2019. It was served on the State on the same date at the offices of the National Prosecuting Authority at 1610 hours. In terms of the rules of court, the State was supposed to file its notice of opposition and opposing affidavit and supporting documents within 10 days of service of the application. The 10 days expired on 25 March 2019. The notice of opposition and opposing affidavits were only filed on 8 April 2019. The delay in filing the opposing papers meant that another 10 day delay in processing the paper trial was added by the failure by the State to timeously

file its opposing papers. The additional 10 days did not only mean the prolonging of the disposal of the matter. By not filing the opposing affidavit within the 10 working days of service, the State was automatically barred by reason of the provisions of Order 33 r 258 which provides that the provisions Order 32 which deals with court application other than for review, will apply to court applications for review. In terms of Order 32 r 233 (3), the State's opposition is not properly before the court and in terms of Order 12 r 83 (a), the Registrar should not have accepted for filing the notice of opposition. As matters stand now, the review application is unopposed since the court cannot consider the opposing papers filled by the State as properly before it unless the bar is uplifted.

For their part, the applicants have not taken further steps to have the review application disposed of even though it is effectively unopposed. Under the circumstances the court has no power to order the applicants to set down their application for judgment. The State by reason of the bar operating against them cannot move for the dismissal of the application for want of prosecution. The trial magistrate can however review her order in which she postponed the trial to enable the applicants to prosecute their intended review application on the grounds that the application is not being prosecuted and that therefore the grounds on which the postponement was granted can no longer hold. Every postponement in any event must be based upon good grounds which merit that the court exercises judiciously its discretion to allow the postponement or any subsequent one. The system is therefore self-regulating if the trial courts monitor the progress of cases referred on review and require the accused to continue to justify further postponements and to explain why his or her review has not been concluded or determined. It is not sufficient for the trial magistrate to simply accept at face value the accused's excuse that the review application is still pending before the High Court without much ado.

Lastly in regard to the bar in operation against the State, the record of review shows that the State followed up on the notice of opposition by filing on 7 May 2019 a notice of amendment to the notice of opposition. Again the Registrar should not have accepted the pleading until the bar had been uplifted. By filing a further pleading instead of applying for upliftment of bar I got the distinct impression that the State counsel may not be knowledgeable in civil procedure. I may be wrong in this apprehension but how does counsel think that pleadings can be filed outside of the court rules without condonation for non-

compliance. These matters of capacitation of counsel in the National Prosecuting Authority in relation to understanding civil practice and procedure should not be swept under the carpet but addressed if an efficient criminal justice delivery system is to be realized. Short of this it will remain a mirage.

Having digressed to comment on the conduct of the State and defence counsels in regard to the review application itself and further given directions on the duty of the trial magistrate to monitor the progress of the review application since she postponed the trial to enable the applicants to bring her determination on review, I otherwise issue an order in relation to the application for stay of trial proceedings pending the decision of the review application HC 1994/19 as follows

1. Proceedings already stayed pending review by the trial court.
2. The application is struck off the roll with no order as to costs.
3. Copy of this judgment must be availed to the Chief Magistrate and the Prosecutor General.

Mbizo Muchadehama and Makoni, applicants' legal practitioners
The National Prosecuting Authority, 1st respondent's legal practitioners