

SOUTH AFRICA / JUDGMENT

Jukes v Malekjee (2024/091632) [2025] ZAGPJHC 642 (26 June 2025)

[2025] ZAGPJHC 642**COURT**

South Gauteng High Court, Johannesburg

BEFORE

N Redman

CASE / FILE NUMBER

2024/091632

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Source record**FLYNOTES:**

CIVIL LAW – Defamation – False criminal complaint – Wrongful imprisonment and professional humiliation – Falsely accused of assault – Led to arrest and detention – Statements to police were unequivocally false and defamatory – Supported by evidence contradicting claims of assault and injury – Prior threats and messages demonstrated malice and intent of reputational harm – Abuse of legal system – Conduct constituted defamation and malicious prosecution – Profound personal and professional repercussions – R500,000.

REPUBLIC OF SOUTH AFRICA
IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION,
JOHANNESBURG

CASE NUMBER:

2024/091632
(1)
REPORTABLE: NO
(2)
OF INTEREST TO OTHER JUDGES: NO
(3)
REVISED.

Name:

N REDMAN Date: 26 June 2025

In the matter between:

CHRISTOPHER
ANDREW JUKES

Plaintiff

and

SAMEERA
MALEKJEE

Defendant

This judgment was
handed down electronically by circulation to the parties' and/or the
parties' representatives by email and by
being uploaded onto
CaseLines. The date and time for hand-down is deemed to be on 26 June
2025.

JUDGMENT

REDMAN AJ:

- [1] This is an application for default judgment. The plaintiff claims damages arising from the unlawful criminal complaint made against him by the defendant. The Notice of Set Down of the application for default judgment was personally served on the defendant.
- [2] In his Particulars of Claim, the plaintiff claims
- (i) general damages in the amount of R1,5 million in respect of defamation and (ii) special damages in an amount of R1 million under the *lex aquilia*. The plaintiff abandoned his claim for special damages at the hearing.
- [3] The plaintiff is a successful attorney who has been practising in Benoni for approximately fourteen years. He is currently a partner of the firm Jukes Malekjee. The defendant is also an attorney practising in the same firm.
- [4] It is the plaintiff's case that on 3 July 2024, the defendant attended at the offices of the South African Police Services and reported a case of assault with intent to do grievous bodily harm against the plaintiff. The following day, on 4 July 2024, the defendant returned to the police station and deposed to an affidavit stating that the plaintiff had stabbed her in the left leg the previous day. In the statement the defendant stated, *inter alia*, the following:

“Christopher Jukes took the glass and stabbed me on my left foot thigh, and I sustained the open wounds and I was bleeding and he stabbed me my left tone foot and where tone get out from the foot. The whole tone nail completely came out.

Christopher Jukes have an unlicensed firearm he actually inherited from his late grandmother. He sometimes threatened to shoot me and said abusive words to me, calling me the bitch and he alleged that he will shoot me and take the business away from me and I creamed for Shabanu and Shabanu agreed that he was aggressive in front of the staff. I request police investigations about this matter and inform me with the findings and those responsible when caught must face the full might hand of the law” (sic)

[5] Two months prior to laying the complaint with the Police, on 8 May 2024, the defendant had orally threatened to injure herself and lay a criminal charge against the plaintiff accusing him of assault. This threat was recorded by the plaintiff on his cellular telephone.

[6] The complaint to the Police was also preceded by WhatsApp messages being exchanged between the plaintiff and the defendant. In these WhatsApp messages the defendant had threatened the plaintiff with false criminal charges and suggested that she would take steps to ensure that he lost his licence as an attorney if he did not comply with her demands.

[7] The complaint made to the Police by the defendant was false and the contents thereof were defamatory of the plaintiff. The defendant accused him of physical assault, threatening behaviour and abuse. The plaintiff provided evidence that this did not occur.

[8] As a result of the complaint, on 4 July 2024 the plaintiff was arrested by members of the South African Police at his offices in front of witnesses, including a candidate attorney and the owner of the neighbouring property. The plaintiff was detained

overnight in a holding cell and was incarcerated in Modderbee Prison from 5 July 2024 to 11 July 2024. During this period he was stripped naked, forced to sleep on a concrete floor without blankets, a mattress or a pillow, and required to use an open toilet and shower in front of other prisoners.

[9] It is the plaintiff’s case that as a result of the defamatory and malicious statements made by the defendant he was exposed to humiliating, disrespectful, degrading and terrifying events. The plaintiff was incarcerated for a period of 8 days against his will. The plaintiff’s case is framed as one based on defamation and malicious prosecution.

[10] From the evidence provided by the plaintiff it is apparent that the defendant made the defamatory statements in order to instigate the arrest and prosecution of the plaintiff without reasonable and probable cause. The earlier threats made by the defendant demonstrate that she acted with malice and with the intention of causing harm to the plaintiff’s good name and reputation. Her intention was for the plaintiff to be struck from the roll of legal practitioners.

[11] I am satisfied on the evidence that the statements made to the South African Police were false and defamatory of the plaintiff and that the consequences were intended and foreseen by the defendant. The affidavits provided by witnesses and the photographic evidence do not support the defendant's contention that she had been stabbed or that she sustained the injuries as a result of an assault by the plaintiff.

[12] The quantification of damages depends on the facts of a particular case. The determination of the damages is a function peculiarly within the province of the Trial Court.[1] In Van der Berg the Supreme Court of Appeal described the position as follows[2]:

"Ultimately a court must, as best it can, make a realistic assessment of what it considers just and fair in all the circumstances. The result represents little more than an enlightened guess. Care must be taken not to award large sums of damages too readily lest doing so inhibits freedom of speech or encourages intolerance to it and thereby fosters litigation. Having said that does not detract from the fact that a person whose dignity has unlawfully been impugned deserves appropriate financial recompense to assuage his or her wounded feelings."

[13] The fact that the defendant embarked on a deliberate and unfounded campaign to destroy the plaintiff's reputation is an aggravating factor.[3] So too is the nature of the publication and the intended and ultimate consequences thereof. The Courts have reiterated that monetary

compensation for harm which has been sustained as a result of the publication of defamatory statements cannot be determined by any empirical measurement.[4] Awards in other cases may provide guidance and assistance but only in a generalised form.[5]

[14] In *Becker v Brits* [2022] ZAWCHC 44 (23 March 2022), the Western Cape High Court awarded a successful and respected farmer damages in the amount of R350 000 against a pastor who had made false allegations in two letters as to the plaintiff's alleged alcohol abuse. In *Janse van Vuren and Others v Van der Merwe*[6] the Court made awards in the amounts of R700 000, R600 000, R1 million and R1 million in favour of four plaintiffs respectively

arising out of the publication of a series of false and defamatory statements made by the defendant.

[15] In *Van der Merwe supra*, the plaintiffs were similarly legal practitioners. In that matter the defendant had made numerous and serious defamatory statements relating to the plaintiff over an extended period of time and in the face of a number of court actions, admonitions and orders for contempt.

[16] In the instant case, albeit that there was limited publication of the defamatory statements, the intended and actual consequences of the statement were dire, I am of the view that an appropriate award for damages would be the amount of R500 000 (Five hundred thousand Rand).

[17] Having regard to the serious nature of the matter, the plaintiff's standing in society, the impact the defamatory statements would have on the plaintiff's good name and professional reputation, and the malicious intent of the defendant, costs on an attorney and client scale are warranted.

[18] The defendant is an attorney and an officer of this Court. The defendant appears to have abused the criminal justice system for her own ends. Making a false and malicious complaint to the Police is reprehensible. The defendant's conduct is of great concern and may have to be dealt with by the Legal Practice Council. I accordingly direct that the Registrar furnish a copy of this judgment to the Legal Practice Council for consideration.

[19] In the circumstances I make an order in the following terms:

1. The plaintiff is awarded damages in the amount of R500 000;
2. The defendant is to pay interest on the aforesaid amount *a tempore morae*, calculated at the appropriate legal rate of interest from date of judgment to date of payment;
3. The defendant is to pay costs on the scale as between attorney and client;
4. The Registrar of this Court is directed to furnish a copy of this judgment to the Legal Practice Council.

N REDMAN SC

Acting Judge of the High Court

Gauteng Division,

Johannesburg

Date of Hearing: 19 June 2025

Date of Judgment: 26 June 2025

Appearances:

For the Plaintiff: Christian Jooste

Instructed by: Jukes and Associates

[1] See *Van der Berg v Coopers & Lybrand Trust (Pty) Ltd and Others*

[2000] ZASCA 77; 2001 (2) SA 242 (SCA) at paras 44 and 48.

[2] See para 48.

[3] See *Katz v Weltz* 2021 JDR 0798 WCC at para 219.

[4] See *Tsedu and Others v Lakota and Another* 2009

(4) SA 372 at para 25.

[5] See Tsedu supra at 25.

[6] 2023 ZAWCHC 137 (29 August 2023)

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