



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: 01 April 2022

Status: Immediate

The following summary is for the benefit of the media in the reporting of this case and does not form part of the judgments of the Supreme Court of Appeal

Biyela v Minister of Police (1017/2020) [2022] ZASCA

Today the Supreme Court of Appeal (SCA) upheld an appeal from the KwaZulu-Natal Division of the High Court, Pietermaritzburg (high court).

The appellant successfully instituted action against the respondent in the Durban Magistrate's Court (court a quo). Judgment was granted in the appellant's favour. However, the respondent was aggrieved by the outcome and appealed to the high court, which upheld the appeal. The matter was subsequently appealed and proceeded to the SCA.

The matter concerned the appellant's arrest by the respondent and revolved around the question whether such arrest was lawful. The appellant happened to have been in the midst of a confrontation between police and members of the public while he was traveling by taxi. Some of the occupants of the taxi were suspected of having been involved in acts of intimidation and public violence, and were correlated to the aforementioned incidents by way of closed-circuit television (CCTV) cameras. These CCTV cameras were manned by police officers who relayed any observed criminal, or suspected criminal, activity to police officers on the ground.

The taxi in question was observed by CCTV as being involved in nefarious activities. The police officers caused the occupants to alight from the vehicle, arrested them and proceeded to keep them in police cells upon the reasonable suspicion that they were the ones responsible for

the nefarious acts attributed to the taxi, as observed by the CCTV cameras. The question was, accordingly, whether a reasonable suspicion existed which justified the officers' arrest of the suspects.

The high court had regard to the credibility of the witnesses and had no reason to doubt the veracity of the police officers' conduct. The majority concluded that the court a quo misdirected itself by not having regard to the information available to the arresting officers to establish a reasonable suspicion at the time of arrest. This Court, however, considered with emphasis whether the police officers could have formed a reasonable suspicion based on hearsay evidence, being the CCTV information, and whether the police officers' testimonies were credible.

This Court agreed with the high court's characterisation of the issues at hand and similarly concluded that the court a quo erred in its conclusion that the police officers could not have formed a reasonable suspicion justifying the arrest. However, this court found that the high court, in turn, misdirected itself by not having had regard to the court a quo's credibility findings and that no misdirection by the court a quo was indicated by the high court. Had the high court done this, a host of concerns would have amounted to the conclusion reached by this Court that the respondent had not proven that the arrest was lawful.

In the result, this Court upheld the appeal and replaced the order of the court a quo with one dismissing the appeal.

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