



**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:** 5 June 2025

**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***

***Khedama v The Minister of Police (667/2024) [2025] ZASCA 79 (5 June 2025)***

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Today the Supreme Court of Appeal (SCA) handed down judgment, wherein the appeal was upheld with costs, including the costs of two counsel, against an order granted by the KwaZulu-Natal Division of the High Court, Pietermaritzburg, sitting as court of appeal (full court). The full court had reduced the initial quantum of damages for the unlawful arrest and detention awarded in the trial court of R1 million to the sum of R350 000 plus interest.

On 3 December 2011, the appellant, Ms Cynthia Nobuhle Khedama, employed as a sales manager in Durban, was preparing to depart from King Shaka International Airport on a business trip to Turkey when two uniformed members of the South African Police Service (the respondent) approached her. They escorted her to the airport charge office, opened and scattered her luggage in public view, and, despite finding no incriminating items, told her she was under arrest on suspicion of involvement with a foreign national, using the derogatory term 'kwerekwere'. The appellant was handcuffed with her hands behind her back and transported in a police van to Tongaat Police Station, enduring a filthy, solitary cell without food, or sanitary facilities for six days. Photographs and fingerprints were taken without offering her an opportunity to apply for bail. On 9 December 2011, she was moved to Cape Town via Mthatha and East London Police Stations, Eastern Cape, each with similarly degrading cell conditions and no chance to freshen up or change clothing. She was finally brought before the Philippi magistrate on 12 December 2011, granted bail of R500, and released. A subsequent bail enquiry in March 2012 confirmed her identity and she returned to Durban.

The appellant instituted delictual proceedings in the KwaZulu-Natal Division of the High Court, Pietermaritzburg (trial court), claiming R1 million for 'embarrassment and humiliation; defamation of character; discomfort and pain and suffering; deprivation of freedom of movement and wrongful detention; psychological shock and trauma; travel and subsistence expenses'. The trial judge found that liability was established and awarded R900 000. On appeal, the full court reduced the award to R350 000 plus interest at 15.5% per annum. Leave to appeal was initially refused by the full court, but the SCA granted the appellant special leave.

The SCA held that in assessing damages for wrongful arrest and detention, the primary purpose is solatium, not enrichment, and awards must reflect the constitutional right to personal liberty. The Court found that the full court had unduly anchored its discretion to lower historical awards without properly accounting for inflation or the gravity of the appellant's conditions – solitary confinement in filthy cells, deprivation of basic necessities and psychological trauma manifesting in suicidal ideation. The Court concluded that while awards in *Mahlangu and Another v Minister of Police* and *Minister of Police v Nontsele* involved longer detention, the severity of treatment in this case justified an upward adjustment. The Court held that duration is a relevant but not determinative factor; treatment conditions and psychological impact are equally significant.

As a result, the Court upheld the appeal with costs and set aside the full courts' quantum. In the exercise of its equitable discretion, the SCA ordered the respondent pay the appellant R580 000, with the prescribed interest rate per annum from the date of service of the summons to date of payment.

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