



**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:** 21 August 2026

**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***

*Chetane v The Minister of Police and Another (482/2025) [2026] ZASCA 110 (21 August 2026)*

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Today, the Supreme Court of Appeal (SCA) upheld, in part, an appeal against a judgment of the Free State Division of the High Court, Bloemfontein (the high court), which dismissed Mr Fako Phillip Chetane's (the appellant) claims for unlawful arrest and detention and malicious prosecution.

The matter arose from two arrests of the appellant during April 2021 following complaints by his girlfriend. He was first arrested on 1 April 2021, released on warning and cautioned not to approach her. He was arrested again on 3 April 2021 at her workplace after the police received a report that he was 'chasing' her. He was detained and appeared in court on 6 April 2021, whereafter he remained in custody until his release on bail on 13 April 2021. The prosecution was eventually withdrawn in January 2023.

The SCA held that both arrests were unlawful because the Minister of Police failed to establish a reasonable suspicion that the appellant had committed a Schedule 1 offence as required by s 40(1)(b) of the Criminal Procedure Act 51 of 1977 (CPA). In particular, the high court had incorrectly relied on a version of Schedule 1 that came into operation only after the arrests. The SCA further held that the detention following the second unlawful arrest was also unlawful. The SCA also found that the high court had erred by relying on s 40(1)(q) of the CPA and s 3 of the Domestic Violence Act 116 of 1998, which had not been pleaded or relied upon by the parties. This prejudiced the appellant because he had not been afforded an opportunity to

address those provisions. His claim for malicious prosecution, however, failed because he did not establish malice on the part of the prosecution.

The SCA accordingly upheld the appeal to the extent of the unlawful arrest and detention claim and awarded the appellant R200 000 in damages for his unlawful arrest and detention from 6 to 13 April 2021. His further claims were dismissed. The Minister of Police was ordered to pay the costs of the appeal and the costs of suit.