



## 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:** 04 June 2021

**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***

*Mxolisi Mananga & Others v Minister of Police* (342/2020) [2021] ZASCA 71 (04 June 2021).

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The Supreme Court of Appeal (SCA) today dismissed an appeal against the Minister of Police with costs.

The appeal arose from the dismissal of the appellants' claim for wrongful and unlawful arrest in the Eastern Cape Division of the High Court, Mthatha. The issue before the SCA concerned the entitlement of a police officer to arrest a suspect, without a warrant, in terms of section 40(1)(b) of the Criminal Procedure Act, 51 of 1977, on a suspicion that an assault had been committed and a dangerous wound had been inflicted.

The appellants had been involved in an altercation relating to the use of dipping facilities for cattle in the Ncora administrative area near Confimvaba, in the Eastern Cape. They had allegedly assaulted the complainant, Mr Sambunjana, causing him to sustain lacerations to his head and a fractured wrist. Mr Sambunjana was admitted to the Cofimvaba Hospital where he was treated, and detained for a period of four days. When a charge with intent to do grievous bodily harm was laid with the South African Police Service at Cofimvaba, Warrant Officer Qunta proceeded to Ncora to interview Mr Sambunjana. He witnessed the injuries sustained and formed the impression that Mr Sambunjana had been severely injured to the head and arm. He accordingly arrested the appellants, without a warrant, and charged them with assault with intent to do grievous bodily harm. They were detained for three days, before appearing in court.

The SCA held that an arrest, without a warrant, in terms of section 40(1)(b) of the Criminal Procedure Act was permitted under Schedule 1 to the Act where an arresting officer held a reasonable suspicion that a dangerous wound had been inflicted. It considered that by 'dangerous wound' is meant an injury endangering life or limb and that Warrant Officer Qunta reasonably suspected that the appellants had inflicted such injuries to Mr Sambunjana. It accordingly held that the High Court, Mthatha, had correctly concluded that the arrest was lawful.

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