



CONSTITUTIONAL COURT OF SOUTH AFRICA

Jack Coetzee v National Commissioner of Police and Another

Case CCT 124/12

Date of Judgment: 29 August 2013

MEDIA SUMMARY

The following explanatory note is provided to assist the media in reporting this case and is not binding on the Constitutional Court or any member of the Court.

On 29 August 2013 the Constitutional Court handed down a judgment refusing leave to appeal against a judgment of the Supreme Court of Appeal.

In November 2009 Mr Coetzee, the applicant, was driving with his family when he came across a roadblock where the Tshwane Metro Police (Metro Police) attempted to stop him. Mr Coetzee, fearing that the officers were imposters, refused to pull over and indicated that he would stop at the nearest police station. The Metro Police gave chase and forced his vehicle off the road, following which he was arrested and detained. Mr Coetzee's attorney brought an urgent bail application in the North Gauteng High Court, Pretoria (High Court).

The High Court found that Mr Coetzee had unlawfully been arrested and therefore, unlawfully detained, and ordered his release. It further ordered punitive costs against several members of the South African Police Service and one Metro Police officer. The respondents were successful in their appeal to the Supreme Court of Appeal.

In the Constitutional Court, although the applicant framed his application in terms of the finding on the costs order as well as other findings made pertaining to his arrest and detention, the appeal was only against the costs order of the Supreme Court of Appeal.

In a unanimous judgment penned by Nkabinde J, the Constitutional Court held that the applicant failed to establish the existence of a constitutional issue, necessary for engaging the jurisdiction of the Court. It held that it is critical to appreciate the nature of the issue involved. Merely labeling litigation as "constitutional" and dragging in inaccurate references to sections of the Constitution would not be enough in itself to raise a constitutional issue. Nkabinde J held that it could not be said that the costs in issue arose from proceedings involving a constitutional matter or an issue connected with a constitutional matter over which the Court has jurisdiction under section 167(3)(b) of the Constitution. The Court therefore refused leave to appeal and made no order as to costs.