

IN THE HIGH COURT OF ESWATINI

JUDGMENT

In the matter between :

Case No. 113/25

FANILE MABUZA

Applicant

And

SIMANGELE MABUZA

1st Respondent

MAGISTRATE D. MAVUSO N.O

2nd Respondent

DIRECTOR OF PUBLIC PROSECUTIONS

3rd Respondent

NATIONAL COMMISSIONER OF POLICE

4th Respondent

ATTORNEY GENERAL

5th Respondent

Neutral Citation: Fanile Mabuza v. Simangele Mabuza And

Others (113/25) [2025] SZHC 39

(13th March 2025)

Coram : J.S Magagula J

Date Heard : 28/1/25

Date Delivered : 13/3/25

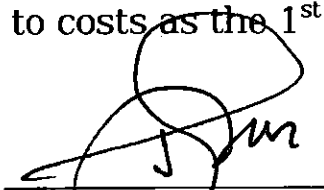
[1] This is a review application in which the applicant seeks substantive relief as follows; to wit an order:

1. *“Reviewing and setting aside an order issued by His Worship the 2nd respondent in favour of the 1st on the 20th day of December 2024.*
2. *That the 1st respondent be directed to dispatch to the Registrar of the High Court the record of proceedings in the above matter within a period of fourteen (14) days from the date of receipt of this order.*
3. *That pending the final determination of this application the ruling issued be and is hereby stayed.*
4. *Costs of suit.”*

[2] When the matter was called on the 28th January 2025, I took time to listen to the submissions of the parties. The 1st respondent appeared in person and she also made submissions. I then reserved judgment.

[3] When preparing for judgment I took a close look at the papers filed and in particular the record filed. The record was quite scanty and when I asked applicant’s legal representative about this, he said that is all that was available from the Magistrate court’s file.

- [4] Attached to the founding affidavit is what is described as a court order and was paraded as a final order issued by the 2nd respondent. Upon a scrutiny of the record I realised that the 2nd respondent never heard the matter on its merits. This was actually a criminal matter.
- [5] When the matter was called on the 20th December 2024, the applicant herein, who appeared as the accused in the court a quo, moved a bail application. The bail was granted and what is now paraded as a final order of the 2nd respondent are actually bail conditions stipulated by the 2nd respondent when granting bail to the applicant.
- [6] The application is therefore premature as the trial in the *court a quo* has not even commenced yet. All that was heard by the 2nd respondent is a bail application and the trial is yet to commence.
- [7] For the foregoing reasons the application is dismissed and there is no order as to costs as the 1st respondent represented herself.



J.S MAGAGULA J

JUDGE OF THE HIGH COURT

For the applicant : T. Dlamini
For the 1st Respondent : In person
For the 2nd to 5th Respondents : S. Khumalo