

SAAKNOMMER: CC 482/85

DELMAS

1986-03-21

DIE STAAT teen:

PATRICK MABUYA BALEKA EN 21

ANDER

VOOR:

SY EDELE REGTER VAN DIJKHORST E

ASSESSORE: MNR. W.F. KRUGEL

PROF. W.A. JOUBERT

NAMENS DIE STAAT:

ADV. P.B. JACOBS

ADV. P. FICK

ADV. W. HANEKOM

NAMENS DIE VERDEDIGING:

ADV. A. CHASKALSON

ADV. G. BIZOS

ADV. K. TIP

ADV. Z.M. YACOOB

ADV. G.J. MARCUS

TOLK:

MNR. B.S.N. SKOSANA

KLAGTE:

(SIEN AKTE VAN BESKULDIGING)

PLEIT:

AL DIE BESKULDIGDES: ONSKULDIG

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IN THE SUPREME COURT OF SOUTH AFRICA

(TRANSVAAL PROVINCIAL DIVISION)

CASE NO. CC. 482/85

DELMAS

1986-03-21

THE STATE

versus

P.M. BALEKA & 21 OTHERS

(10)

J U D G M E N T

VAN DIJKHORST, J.: I have been considering this question of bail over the past week and I have considered the arguments placed before me yesterday and they again exercised my mind last night and I have come to a firm decision on the matter of bail. It is advisable for all concerned that I give my ruling thereon now rather than keep everybody in suspense and what I lose in elegance of language in the judgment the accused will gain in certainty.

The accused applied to be released on bail. They (20) previously applied to the Transvaal Provincial Division for bail and after a number of preliminary issues had been dealt with the hearing on the merits of the application for bail took place on 7 November 1984. This hearing was before a Full Bench consisting of three Judges. The application was dismissed for reasons which are set out in the judgment of the Full Bench and to which I shall refer in extenso. The applicants for bail set out in their application that in giving the judgment of the Full Bench ELOFF, D.J.P. said:

"I come to the conclusion that in view of the security (30)

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of the State the application for bail cannot succeed.

This of course is not the last word in the matter. It may be that if, in the weeks and months that lie ahead, greater stability is achieved as regards the situation of unrest or if the state of emergency is lifted it may be that different considerations will obtain. The accused are at any stage free again to approach the trial Judge and may, in the light of changed circumstances, again bring an application for bail."

In paragraph 4 of the application the accused state that (10) on Friday 7 March 1986 the state of emergency was lifted. They state that they have been advised and verily believe that the Attorney General no longer contends that the safety of the State might be harmed if they were to be released on bail. Their belief is incorrect. In fact the safety of the State was the most contested issue in this case in the argument before me. I will revert to this later. The accused further submit that the reason for the refusal of bail given by the Transvaal Provincial Division has now fallen away, in view of what they have stated in paragraph 4 of their (20) application.

Further it is stated in the application that another material event that has occurred since the hearing by the Full Bench is the acquittal of twelve leading members of the United Democratic Front on charges of treason in Pietermaritzburg on 9 December 1985. They state that the twelve UDF leaders who have been acquitted were released and have not been subjected to any administrative prohibition in terms of the Internal Security Act or any other law and that they have resumed their former political activities in the UDF. (30)

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It is stated in the application that there are strong similarities between the averments made against the twelve UDF leaders who were acquitted and all the accused in the present case and that many people who have been cited as co-conspirators in the charge against the accused have not been arrested. They draw attention to the fact that the twelve persons who were tried and acquitted in the Pietermaritzburg trial have all been cited as co-conspirators in the charges brought against them. The accused also state that they have no intention of leaving the Republic of South Africa or of joining the ANC and they point out that bail was granted to all the accused in the Pietermaritzburg trial and that they attended their trial regularly and complied with their conditions of bail. They submit that their position is no different from those in the Pietermaritzburg trial. They deny an allegation by the then Captain Kruger that the ANC had a plan to help them to leave South Africa and they state that in any event should the ANC attempt to put such plans into effect they will not co-operate. They set out cogent reasons why it would be better for them to be released on bail rather than be kept in custody. These reasons pertain to their personal circumstances, the disruption of their home life and the preparation for trial. (10) (20)

They submit that in the circumstances of this case the interests of justice will not be harmed if they are released on bail. Detailed particulars are annexed by each accused of the circumstances pertaining to him in particular.

Before analysing the application and the Attorney General's submissions and answering affidavits I will briefly refer to the legal principles to be applied when this type of (30)

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application is dealt with. The arrest and custody of an accused person has the object of ensuring that he stands trial. Our process requires the presence of the accused when justice is administered. Without this presence the process is stultified. The aim of holding an accused in custody is the furtherance of the proper administration of justice. That remains the aim also when a bail application is considered. As it is presumed that an accused is innocent until he is found guilty the approach to an application for bail is always in favorem libertatis provided the administration (10) of justice is not prejudiced by the release of an accused from custody. The security of the State is also an important factor to be considered as will appear from the passages in the judgment of the Full Court which I will quote rather extensively. As the accused are the applicants they have to convince me that their release will not be harmful to the proper administration of justice and that the security of the State will not be jeopardised. They bear the onus.

I have considerable sympathy for accused persons who have to be parted from their families and whose occupations are (20) disrupted because they are detained pending the outcome of their trial, the more so as our criminal process is often a protracted and painstaking search for the truth. The matter has, however, to be decided on legal principles and not on my personal feelings.

The first issue between the State and the accused is whether there are changed circumstances which induce me to look at the question of bail afresh. If in this respect the accused fail to convince me the application must of necessity fail. The basis upon which the Full Bench concluded, as (30)

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is set out in the application, was the attitude of the Attorney General. This is clear from the following passages: At page 2 of the judgment ELOFF, DEPUTY J.P., stated as follows:

"I think it necessary to refer first of all to the affidavit by the Attorney General. He states that when the dossier in this matter was placed before him for consideration he decided to indict the accused and then goes on to say the following:

'4. Die de facto posisie in die Republiek huidiglik is sodanig dat enige persoon wat (10) politiekemisdrywe in die Republiek pleeg en die land uitvlug beskerming deur buurstate verleen word en dat geweier word om sodanige persone aan die Republiek uit te lewer vir verhoor van sodanige misdrywe.

5. Ek beskik oor inligting wat ek weens die sensitiewe aard daarvan, die beskerming van polisie metodes en bronne van inligting, en beskerming van beriggewers, nie in die openbare belang aan die Hof kan openbaar nie en wat aandui dat indien (20) die applikante op borgtog of andersins vrygelaat word dit 'n wesenlike gewaar of bedreiging inhou vir die veiligheid van die Staat in die handhawing van wet en orde in die Republiek.

6. Volgens my oordeel het die veiligheidsopset in die gebied van die Vaal Driehoek spesifiek en in die land in die algemeen wesenlik onveranderd gebly sedert die uitoefening van my diskresie tydens die uitreiking van die bevel kragtens Artikel 30(1) van Wet 74 van 1982. Die (30)

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verklaring van die bestaan van 'n noodtoestand in sekere gebiede, insluitend die landdros distrikte Vereeniging en Vanderbijlpark on 21 Julie 1985 staaf my siening en die inligting tot my beskikking."

Then follows a reference to affidavits by members of the police force. I will refer to evidence of this type later. At page 6 the learned Deputy Judge President stated:

"I propose to confine myself in this judgment to the question of the security of the State. As I pointed out we have before us the affidavit by the Attorney (10) General in which he states under oath that in his opinion on the basis of information made available to him the security of the State will be imperilled if the accused are released on bail. It is not disputed that if this averment is accepted, or rather if there is not any reason to doubt this averment, that this may per se be an adequate reason for withholding bail. Even if there is satisfactory proof that the accused may be restricted by suitable conditions and even if there is adequate reason to believe that they might stand their (20) trial, bail could and should in a proper case be refused on the simple basis that there is adequate reason to believe that the security of the State may be imperilled if the accused are released on bail."

At page 8 the learned Judge continued:

"I return then to the circumstances of this case. In the face of the averment by the Attorney General the question is whether the accused have put material before the Court which will be of such a nature that the statement made by the Attorney General is fully met. We (30)

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have given close and anxious thought and consideration to the statement made by each of the various accused."

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"We do not think that the personal circumstances mentioned .... are sufficient to counter the matters expressed by the Attorney General. I should not be understood to say that because the Attorney General has made his statement that that is the end of the matter and that the Court is not free itself to decide on whether bail should be granted or not. To do so (10) would make the Court the rubber stamp of the Attorney General. But it is important to bear in mind that even before Section 30 found its way onto the statute book it has been recognised that the Attorney General occupies a particular position and that the Court will devote particular attention to the attitude of the Attorney General."

After referring to certain decided cases the learned Judge stated at page 10:

"We are here concerned with the question of whether (20) the Court is in a good or better position than the Attorney General to decide whether or not the security of the State will be imperilled if the accused are released on bail. I do not claim to be able to be placed in that position and nor do I think that anything that has been said by the accused in any way persuades me that the misgiving of the Attorney General is not justified. That is of course not to say that he may be absolutely correct. Time will show whether his misgivings are correct or not. For present purposes it (30)

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is important to note that the statement under oath by the Attorney General is not adequately countered by any of the statements made by any of the accused. The conclusion to which I come on this part of the case is that to release the accused on bail may jeopardise the security of the State and will be undesirable. We are mindful of the consideration urged by Mr Chaskalson on behalf of the accused that it will be unfortunate in the extreme if the accused were to have to go through a prolonged trial and may in the end be acquitted after (10) they have been incarcerated for many many months. On the other hand the freedoms and rights of the individual have, in a case such as the present, to be measured against the overall security of the State involving many many more persons than the 22 accused before us. This will not be the first time where individual rights and liberties may have to yield to the greater and more important consideration of the security of the State."

Thereafter follows the portion of the judgment referred to in the application and which I have quoted. (20)

It will be noted that the Full Bench found that it was not in as good a position as the Attorney General to decide whether or not the security of the State will be imperilled if the accused are released on bail and that the statement on oath by the Attorney General was not adequately countered by any of the statements of the accused. The question which I have to decide is whether this position has changed. In paragraph 4 of the application the accused say that they have been advised that the Attorney General no longer contends that the safety of the State might be harmed if they were to be (30)

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released on bail. That advice turned out to be incorrect. I was informed from the Bar by counsel for the accused that the Attorney General had advised the attorney for certain of the accused that paragraph 4 of the application would not be opposed. Mr Jacobs, Deputy Attorney General who argued this application for the State, informed the Court that he acted on instructions of the Attorney General personally who was aware of and supported the arguments put before this Court in opposition. He further informed the Court that the Attorney General still holds the view set out in his (10) affidavit referred to and relied on by the Full Bench and that he had not thought it necessary to reiterate what he had said there as the affidavit was before Court by reference thereto in the judgment of the Full Bench which is annexed to the application. That the contention and view of the Attorney General is still that the security of the State will be jeopardised should the accused be released on bail is clear from the fact that he placed before Court affidavits by police officers in support of that contention. It also is clear from his heads of argument filed together with (20) his answering affidavits and from the contentions in court. From the above it appears that either there was a misunderstanding about the attitude of the Attorney General which at least partly, if not solely, caused this application to be brought, or the Attorney General changed his mind since he was seen by the attorney for the accused. What happened is not set out on the papers by either side, but it indeed unfortunate that this aspect should cloud this case. The only approach I can follow is to decide on the contentions and facts placed before me. What is evident is that the (30)

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important consideration upon which the Full Bench came to its decision has not fallen away. The Attorney General still holds the same view he held in his affidavit. The question remains whether this view is still justified, or, to put it the other way around, has been shown to be not justified.

The reason for the refusal of bail by the Full Bench was not the declared state of emergency but the statement by the Attorney General that the security of the State would be imperilled by the release of the accused on bail. It follows that the lifting of the state of emergency per se (10) does not necessarily change the position. It is a factor to be considered and in this respect one can state that the State President declared that though sporadic and isolated instances of violence were still instigated in parts of the country the situation had improved to such an extent that the existing state of emergency could be terminated in those magisterial districts where it was still in force. It is clear from the statement by the State President, however, that continuing unrest is still envisaged by him.

From the affidavits of Captain Conradie and Warrant (20) Office Coetzee it appears that the situation has deteriorated since 7 March 1986 in the Vaal Triangle. Public meetings are held at which the residents are exhorted to pay no rent at all. The Lekoa Town Council is accused of misleading the residents and the latter are incited to reject the law enforcement department of the Lekoa Town Council. There was allegedly talk of killing a certain councillor. A stay away action is being organised for 24 March 1986 to force the authorities not to sue those who refuse to pay rent. Students of the Mokatudi High School at a meeting resolved that the (30)

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Lekoa Town police should be killed at their respective homes, marched in the streets and stoned police vehicles. Pamphlets apparently issued by UDF were found in classrooms of the Mokatudi Higher Primary School and the Tukelo Higher Secondary School. The Transvaal Provincial Division which sentenced six persons to death for murder of Councillor Dhlamini is dubbed an apartheid court used by the government to stifle resistance of the people. Despite the finding of the Court the pamphlet says that the said six are not responsible for the "deaths of puppets Dhlamini and company" and blames (10) the government. It ends with "we cannot let them hang". Such pamphlets in the hands of schoolchildren are like striking a match in dry veld. There is also a poster before me. It is grim, with six nooses and the six convicted persons standing below them with others intervening between with the Amandla sign and at the top the words "We will not allow them to hang" and below "Down with puppets, away with apartheid, forward to people's power". As we know from this case the reference to puppets is to councillors, and where the six were convicted for the murder of a councillor the poster (20) is clearly inflammatory. From the poster it would appear that it was issued by the UDF. I would immediately make it clear that I do not hold the accused responsible for this pamphlet or for this poster. They were in jail when these were issued.

Warrant Officer Coetzee states that the situation has deteriorated after the lifting of the emergency regulations and that unrest which was sporadic is now on a more organised basis. It consists of stoning of police and Lekoa Town Council vehicles, gatherings in streets, disruption of schools, (30)

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arson in schools and barricading of streets. All this is well organised. The security situation in the Vaal Triangle is deteriorating and he expects a greater escalation of violence. This then is the evidence placed by the police before this Court.

There is no answer by the accused to this evidence. In argument Mr Chaskalson stated that these events took place whilst the accused were in custody and that their release on bail would not affect the situation. That argument misses the point. The question here debated is whether it can be (10) said that there has been a material change in the security situation since the decision of the Full Bench. If this is not shown then the attitude of the Attorney General in his previous affidavit, and again in this Court, has to be given the same weight by me as by the Full Bench. The difference brought about by the lifting of the state of emergency seems, on the evidence before me, to be a technical one in our context. The position has therefore not been shown to be materially different from that which prevailed when the judgment of the Full Bench was handed down. (20)

In the light of this finding an argument that the accused can, by means of bail conditions, be prevented from imperilling the security of the State, which argument in my opinion is not without substance, cannot prevail. It was considered and rejected by the Full Bench as appears from the portions of the reasons quoted by me from page 6 of the judgment. This therefore concludes the matter. The applications for bail are dismissed.

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MNR. FICK : U Edele, ek roep die volgende getuie, mev. Patricia Phosisi. Sy sal getuig oor paragraaf 77(10), dit is bladsy 356 van die akte van beskuldiging en ook oor die raadslede in die algemeen. Sy self is 'n raadslid.

PATRICIA PHOSISI, v.o.e. (Deur tolk)

ONDERVRAGING DEUR MNR. FICK : U is 'n raadslid van die Lekoa Stadsraad? -- Dit is so, ja.

Wyk 22 in Sharpeville? -- Dit is so.

U was verkies tydens die verkiesings van November 1983 tot hierdie posisie? -- Ja, dit is so. (10)

HOF : Is dit die eerste keer wat u op die Raad gekom het? -- Dit was die eerste keer, ja.

MNR. FICK : Het u enige verkiesingsvergaderings voor hierdie vergadering gehou? --Ja, ek het.

Ongeveer hoeveel? Kan u vir die Hof sê? -- Vyf of ses.

Het u enige probleme ondervind met die hou van hierdie vergaderings of tydens die vergaderings was daar enige probleme? -- Niks het gebeur nie. Dit was normaal gewees.

En op die dag van die verkiesing, het u enige probleme in wyk 22 ondervind? -- Nee, geen probleme nie. (20)

Op die dag van die verkiesing, was daar 'n verkiesing gewees in die wyk of was u nie geopponeer nie of wat was die posisie? -- Ons was vyf kandidate vir daardie wyk wat gestaan het om gekies te word vir die wyk.

Kan u aandui ongeveer hoeveel stemme u gekry het? -- 595.

HOF : En u teenstaanders? -- Wat na my kom is 295, die derde een 196, die vierde een 159 en die laaste een was 44 of 48.

Is Wyk 22 'n besondere wyk of is dit 'n doodgewone woonhuiswyk? -- Dit is 'n gewone woonhuiswyk.

MNR. FICK : U het toe u werksaamhede as 'n raadslid begin (30) in Januarie 1984? -- Ja.

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Ons weet nou daar was op 'n stadium besluit dat die huur verhoog sou word? -- Ja.

Was u een van die persone wat besluit het dat die huur verhoog moet word? -- Ja, ek was, eintlik was die hele Raad teenwoordig.

Kan jy aan die Hof aandui wat was die rede waarom die huur verhoog sou word? -- Dit was as gevolg van die vereistes deur die gemeenskap dat strate geteer moet word en die beligting, dit wil sê die installasie van die "high mast" ligte, want die gebied is donker. In my wyk was 'n ander vereiste dat die (10) klein huise wat bestaan het met twee vertrekke vergroot moes word. Die versoek was gebaseer op hierdie basis dat die mense voertuie gebruik op hierdie strate en die strate is sleg vir die gebruik van die voertuie.

HOF : U praat nou nie van die teer van strate nie, maar u praat van die gradering van strate? Die skraap van strate? -- As ek so sê praat ek nog steeds van die teer van strate.

MNR. FICK : Verstaan ek u dan reg dat die mense wou die strate geteer gehad het omdat die paaie se oppervlakte andersins baie sleg is en hulle voertuie beskadig? -- Ja, dit is so. (20)

U het aan die Hof aangedui dat die gemeenskap dit gevra het van die Raad. Kan u meer daarop uitwei. Hoe het die gemeenskap dit gevra? Wanneer het hulle dit gevra? -- Na, ek gekies was met die verkiesing, het ek 'n vergadering gehou met die gemeenskap in my wyk om hulle toe te spreek. Dit was op hierdie vergadering waar die gemeenskap dit onder my aandag gebring het.

Weet u hoe die verhogings wat ons nou weet R5,50 en R5,90 per maand was, uitgewerk is? Hoe dit vasgestel is dat dit die verhoging sal wees? -- Toe ons die vereistes van die gemeen-(30) skap bespreek het daar, het ons op hierdie bedrae besluit om

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die koste van die projekte te dek, byvoorbeeld om 'n straat te weer. Dit word per meter uitgewerk en dit werk duur uit. As gevolg daarvan het ons op hierdie bedrae soos genoem besluit dat dit die verhoging gaan wees op die huidige huurgelde. Dit het beteken dat die persone wat gekoop het sou R5,50 meer betaal het en die res sou R5,90 meer betaal het.

HOF : Kan u vir my net 'n aanduiding gee, 'n persoon wat R5,90 betaal, wat was sy oorspronklike huur? --Dit het gegaan, byvoorbeeld die persone wat nie in my wyk gekoop het nie, se huurgelde was R62,16, plus as ons dit verhoog, sou dit plus (10) R5,90 gewees het. Dit wil sê die huidige huurgelde was R62,16 en dan sal R5,90 daarby bygereken word.

En die mense wat gekoop het, wat was hulle paaient voor die verhoging? -- Die huurgelde vir die mense wat gekoop het, was destyds R50,00 per maand.

Dus was jou paaient dan minder as jy gekoop het, as wanneer jy gehuur het? -- Ja, dit is so.

Is dit omdat die huis kleiner was as jy hom gekoop het of was dit maar dieselfde grootte huise? -- Dit was dieselfde grootte huise van vier vertrekke. (20)

MNR. FICK : Was daar 'n vergadering gehou nadat nou besluit was op hierdie verhogings en die bedrae met die gemeenskap om hulle in te lig omtrent hierdie verhoging? -- Voor ons besluit het dat dit die verhoging gaan wees op die huidige huurgelde, na dit bespreek was en voorgestel was, het ons vergaderings gehou om die gemeenskap te laat kennis daarvan neem.

Wanneer het u so 'n vergadering gehou met die gemeenskap? -- In Juliemaand het ek 'n vergadering met die gemeenskap gehou in my wyk. Dit is na dit bespreek was en 'n voorstel gemaak was van hoeveel die verhoging gaan wees met die oog daarop (30) om my wyk se mense in te lig.

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Het u aan hulle ook die redes gegee waarom dit verhoog word en wat bereik sal word met die verhoogde geld? -- Ja, ek het.

In u betrokke wyk wat sou gedoen word het met hierdie verhoogde huurgeld? -- Die verbetering van strate, byvoorbeeld om teer op te sit. Daar was 'n versoek gewees vir die hoë ligte, die "high mast", vir die beligting van die woonbuurt daar. Daar was ook 'n versoek gewees dat daar meer voertuie gebring moet word of verkry moet word vir die wegdra van die vullis. (10)

Wat hierdie vergadering betref in Julie, hoeveel mense was daar teenwoordig van u wyk, ongeveer? -- Waar ek nou alleen was in my wyk?

Dit is reg? -- Wat ek gedoen het, die eerste vergadering wat ek gehou het, was met die "executive" wat in my wyk was gehou. Dit was voor ons nou 'n vergadering gehou het met die hele gemeenskap van Sharpeville. Ek wou sekere dinge aan hulle oorgedra het en hulle goed ingelig wat bespreek was aangaande die huurgelde.

HOF : Is die "executive" van 'n politieke party? -- Dit was (20) 'n "executive" van my wyk waar ek gekies was. Ek het besluit op die persone en hulle genomineer as my "executive".

Was dit eintlik mense wat u gehelp het met die verkiesing en later u wyksbestuur gevorm het? -- Ja.

Maar u het nie gestaan as verteenwoordiger van 'n party nie? -- Destyds al toe ek gekies was, was ek 'n lid van 'n party gewees.

Wat is die naam van die party? -- Baphutsana Party.

MNR. FICK: Laat ons nou net duidelikheid kry. Die vergadering wat u van praat van Julie, was dit met die "executive" (30) wat u van praat, die uitvoerende komitee? -- Ja.

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Met die gemeenskap in u wyk of in die hele Sharpeville, het u met hulle ook 'n vergadering gehou in verband met die huur? -- Ons het 'n vergadering gehou met die gemeenskap van Sharpeville as geheel, waar ons almal bymekaar gekom het. Dit wil sê al die raadslede van Sharpeville was bymekaar by hierdie vergadering.

Was die redes ... (Hof kom tussenbei)

HOF : Net voor u daarby kom. Hoeveel van u het die vergadering saam gehou? -- Ons was ses.

En wanneer was die vergadering gehou? -- Op 5 Augustus(10) 1984.

En waar is dit gehou? -- In die gemeenskapsaal van Sharpeville.

MNR. FICK : Hoeveel mense het opgedaag om te kom luister na die raadslede? -- Die saal was vol. Ek skat 500 plus.

Was die bedrag van die verhoogde huishuur genoem deur die raadslede en was die redes ook gemeld aan die publiek? -- Ja, dit was. Dit was aan die gemeenskap verduidelik wat die bedrag gaan wees wat bygereken sal word as verhoogde huur en wat die rede was hoekom dit gedoen moet word. (20)

Is dit die bedrae en die redes wat u voorheen nou in u getuienis gemeld het? -- Ja, ons het hulle gesê.

Wat was die gehoor se reaksie op die verhoging en die redes? -- Die meerderheid van die gehoor was tevrede gewees na hulle gehoor het wat die redes was vir die verhoging van die huurgelde, dat ons hulle vereistes wil nakom met die verhoogde geld.

En die minderheid, wat het hulle gemaak? -- Die ouerige mense wat die meerderheid was waarna ek verwys, was tevrede. Dit is net die klomp jeugdiges wat daar teenwoordig was (30) wat eintlik aangedui het dat hulle nie tevrede was nie. Ek

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het tot die slotsom gekom dit is as gevolg van hulle jeugdigheid en tekort aan kennis van dinge dat hulle nie tevrede is nie.

HOF : Die jeugdiges wat daar was, was dit mense wat huur betaal of was dit nie mense wat huur betaal nie of hoe oud was hulle omtrent? -- Hulle was nog jonk gewees. Hulle was nie op die ouderdom van mense wat huurgelde kan betaal nie.

Op watter ouderdom kan 'n mens stem vir die Stadsraad van Lekoa? -- Van 18 en meer.

Is daar 'n kwalifikasie dat 'n mens 'n huis moet besit (10) in die sin van dat jy dit huur of kan enigiemand wat daar woon stem? -- Daar is nie spesifieke kwalifikasies nie. Dit wil sê dit is nie net 'n persoon met 'n huis wat geregtig is om te stem nie, maar 'n persoon wat op die "voters' roll" verskyn is geregtig om te stem.

U sê dat hulle het aangedui hulle is nie tevrede nie. Wat het hulle gesê en hoe het hulle aangedui dat hulle nie tevrede is nie? -- Hulle het daar in die saal begin skreeu en sê dat hulle verstaan nie wat ons probeer sê nie, ons wil onself ryk maak met die Staat of die Raad se geld. (20) Hulle het verder aan ons gesê ons is "puppets". Daar is niks wat ons weet nie.

Hoeveel was hulle in verhouding met die ander mense? -- Dit was 'n klompie, minder as 50.

MNR. FICK : Het hulle bymekaar in die saal gesit, het hulle verspreid oor die saal gesit? Hierdie jeug wat u nou van praat? -- Hulle het in klein klompies by verskillende plekke gesit in die rye daar in die saal.

En die meerderheid, wat was hulle reaksies, toe die jeugdige nou so aangaan? -- Die meerderheid wat uit ouerige (30) mense bestaan het, het tussenin getree deur te keer dat die

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jeugdige nie so moet praat nie, om weer orde te bring in die vergadering.

Het hulle daarin geslaag? -- Ja, hulle het daarin geslaag.

Die week na die vergadering, wat het toe gebeur? -- Daar was toe kinders gewees wat papier in ons erwe gegooi het wat versprei was.

Wat se papier? Wat het op die goed gestaan? Weet u? -- Ek het een van daardie papiere gekry en gelees waar die inhoud van die papier besig was om die gemeenskap van Sharpeville te nooi om te vergader en die kwessie van huurgelde te bespreek. Die einde van die woorde daar was geskryf op die heel onderkant "Asinamali, Asinamali". (10)

Het u die vergadering gaan bywoon? -- Ek het nie die vergadering bygewoon nie, alhoewel ek eintlik graag wou gehad het dat ek dit moes bywoon.

Hoekom het u nie gegaan nie? --- Ek het hierdie vergadering met my voorsitter bespreek, naamlik Samson Mofokeng en hy het nie sy goedkeuring gegee dat ek soontoe gaan nie. In plaas daarvan dat ek moet gaan, het hy gesê hy sal lievers gaan. (20)

Weet u waar hierdie vergadering gehou was, volgens die pamflet? -- Ja, by die Anglikaanse Kerk in Sharpeville naby die polisiestasie te Sharpeville.

Kan u onthou wat die datum was wat die vergadering gehou sou gewees het? -- Onder korreksie, ek is nie meer seker van die datum nie, maar as my geheue my nie in die steek laat nie, sal ek sê dit was 19 Augustus.

Weet u wie hierdie pamflet uitgereik het? Het dit daar gestaan op die pamflet wie hierdie pamflet uitgereik het? -- Nee, dit was nie geskryf waarvanaf dit gekom het nie. (30)

Nou wil ek met u gaan na gebeure van 2 September 1984.

U was die aand van 2 September by u huis? -- Dit was 'n Sondag gewees. Ek was nie tuis nie. Ek was weg.

Ons sal nou meer volledig daarby kom. Waar woon u? -- S296.

Is dit nou Sharpeville? -- Ja.

U was nie by die huis nie, sê u. Waar was u? -- As gevolg van die inligting wat ek bekom het, dat dit sleg gaan word vanaf 1 September, het ek toe 'n besluit geneem om na my swaer toe te gaan en daar tuis te gaan. Dus is ek weg van my woning op 2 September. (10)

Hoe laatdie dag van 2 September is u weg by u huis? -- Dit was om 17h00 toe ek vertrek het.

U sê as gevolg van inligting wat u gekry het dat dit sleg sal gaan - waar het u die inligting gekry? Was dit in die strate, gerugte wat u gehoor het? -- As gevolg van dreigemente oor die telefoon, het ek toe hierdie inligting gekry.

Ek wil vir jou 'n paar goed vra oor die dreigemente. Eerstens, hoeveel van daardie oproepe het u gekry waar u dreigemente ontvang het? -- Ek het vier gekry met dreigemente.

Tweedens wil ek by u weet, hoe lank voor 2 September (20) het u hierdie vier oproepe ontvang? -- Twee van hulle was op 'n Woensdag en twee op 'n Donderdag. Dit is die Donderdag voor die Vrydag wat die einde van die maand was. Dit wil sê, die 1ste van die nuwe maand was op 'n Saterdag.

Kom ons kyk of ons dit nie makliker kan maak nie. Die dae wat u van praat ... (Hof kom tussenbei)

HOF : Dit is maklik. Dit is alles in die dae voor die 1ste.

MNR. FICK : Dit is net wat ek wil duidelik maak. Die persone wat u geskakel het, het u enigeen van hulle geken of is hulle aan u geïdentifiseer wie praat? -- Een van die persone wat (30) die oproepe gemaak het, die dreigemente, het ek gevra "Maar

... / wie

wie is dit wat bel?" Die persoon het toe gesê "My naam is 'You are on fire'".

Die ander persone, die ander drie oproepe, is daardie persone geïdentifiseer? Het die persoon enige naam vir hom gegee of enige bynaam? -- Nee, hulle het nie hulleself geïdentifiseer nie, behalwe dat hulle net vir my gesê het - dat hulle van my wou geweet het wanneer gaan ek bedank uit die Raad, want andersins kom hulle vir my kuier op die 1ste.

Die dreigemente wat teenoor u geuiter is, is dit wat u nou so pas gesê het of is daar ander dreigemente ook (10) geuiter tydens die vier oproepe? -- Die persone het toe nie verdere dreigemente gemaak nie, maar aangesien die persone gesê het dat hulle daar gaan wees die nag van die 1ste, die Vrydag het ons die hele nag wakker gebly en wag gehou vir die persone wat gesê het hulle sou vir my kom kuier.

Het hulle opgedaag? -- Nee, hulle het nie opgedaag nie.

En die Saterdag, het daar enigeen opgedaag? -- Nee, niemand het opgedaag nie.

GETUIE STAAN AF.

HOF VERDAAG. HOF HERVAT. (20)

K161

PATRICIA PHOSISI, nog onder eed

ONDERVRAGING DEUR MNR. FICK (vervolg) : Die persone wat vir u gesê het hulle gaan kom kuier het nooit kom kuier nie, tot 17h00 die middag van 2 September wat u weg is? -- Dit is so.

HOF : U praat nou van kuier. Het u gedink dit sal 'n vriendelike geselsie wees? -- As gevolg van wat gesê was oor die telefoon, was dit nie 'n vriendelike besoek deur hulle nie.

Die persoon waarheen u gegaan het die dag van die 2de, waar woon hy?

HOF : Is dit nou haar swaer? (30)

MNR. FICK : Haar swaer? -- Zone 11 by huis nr. 12726.

... / Kan

Kan ons nou net duidelikheid kry, die huis, ons weet daar is 'n groot teerpad wat daar loop deur die gebied. Is die huis aan daardie teerpad of is hy op 'n ander plek? -- Dit is by hierdie teerpad. Dit is geleë aan die teerpad.

Die persoon genaamd Caesar Motjeane, die raadslid, weet u waar woon hy? -- Ja, ek weet.

Die huis van die swaer waarheen u gegaan het, hoe ver is hy van Caesar Motjeane se huis af? -- Hulle is nie ver van mekaar nie. Daar is 'n straat tussen hulle wat aansluit by die hoofpad. Dan is Caesar se huis in die tweede straat (10) geleë vanaf die straat waar my swaer woon.

HOF : Sou u sê dat die twee huise ongeveer 'n blok uit mekaar is of 'n bietjie meer as 'n blok? -- Dit is nie 'n blok nie.

MNR. FICK : In hierdie teerpad waar die huis van u swaer geleë is, is daar ook busstoppe? -- Ja, daar is in Zone 12.

HOF : Is daar ook bushaltes?

MNR. FICK : Ek soek net 'n vergroting dan kan ek dit aan die getuie toon en sy sal die plek kan uitken. Weet u waar is die steeg wat van die teerpad af gaan na Caesar se huis toe? -- Dit is juis die steeg wat ek van praat, as ek praat van 'n (20) straat tussen die huis waar ek was en die huis van Caesar. My huis waar ek gekuier het, is die tweede huis van die steeg, dit wil sê in die hoofstraat. Dit is die steeg wat lei na Caesar se woning toe.

HOF : As 'n mens nou die steeg vat waar hy aansluit by die hoofstraat, aan watter kant van daardie steeg is u huis? Is dit aan gebied 57 se kant of aan gebied 53 se kant? -- As ek in die steeg ingaan vanaf die hoofpad, dan is die huis aan my regterkant.

MNR. FICK : Die nag van die 2de het u daar geslaap? -- Ja. (30)

En die volgende oggend van 3 September was u nog by die

... / huis

huis? -- Ja, ek was.

Wat het u die oggend van 3 September 1984 opgemerk terwyl u daar by u huis was? -- Daar het 'n hele klomp mense daar te voorskyn gekom wat beweeg het vanaf die rigting van Evaton na ons rigting, dit wil sê in die rigting van die huis waarin ek was met die hoofstraat.

Kan u aan die Hof aandui ongeveer hoe laat was dit toe u nou hierdie klomp mense sien aankom? -- Om en by 09h00 of net na 09h00.

HCF : Was die klomp mense 'n los verspreide klomp mense (10) of het hulle saam geloop soos 'n optog? -- Dit was 'n klomp mense wat saam gestap het.

MNR. FICK : Het hulle in die middel van die pad geloop, het hulle die hele breedte van die pad vol geloop? Hoe het hulle gestap? -- Hulle het die hele straat vol geloop?

Kan u enige aanduiding gee hoeveel mense daar was ? -- Hulle was so baie gewees dat ek skat dit op ongeveer 'n duisend of meer.

Soos die mense aangekom het, het hulle in doodse stilte gestap of wat het daar gebeur? -- Hulle het gemarsjeer en (20) gesing.

Wat het hulle gesing? Weet u? -- As gevolg van die skok wat eksel self opgedoen het, kan ek nie sê wat presies die liedere was wat daar gesing was nie, maar die woorde wat gebesig was was dat "Areyeng Houtkop", wat beteken "Laat ons Houtkop toe gaan." "Roaloaninang rente", wat beteken "Laat ons gaan baklei vir die huurgeld."

Soos u dit nou daar opgemerk het, het almal dit gesing of het het ander ander goed gedoen? -- Terwyl die ander gesing het, was daar 'n klomp wat gepraat het en die volgende woorde(30) gebesig het "Die ouers moet uitkom en deelneem dat daar

... / saamgegaan



saamgegaan word om te gaan baklei vir die verhoogde huurgelde.

Het u toe u die groep gesien het uit die huis gegaan of het u vir hulle van binnekant die huis af gestaan en bekyk? -- Ek het nie uit die huis uitgegaan nie, maar by die venster gestaan en kyk terwyl hulle daar verbygegaan het, want ek was bang om uit te gaan.

Toe u hulle die eerste keer gesien het, was hulle al regoor die huis of was hulle in aantog na die huis toe of was die voorste punt al verby? -- Ons het gaan kyk toe ons die gesingery gehoor het wat gebeur. Dit is voor hulle verby is. Dit (10) wil sê verby die huis waar ek was.

HOF : Toe u hulle die eerste keer sien, waar was die voorpunt? -- Twee of drie huise ver van die huis vanwaar ek was.

Dit is nou twee of drie huise Evaton se kant toe? -- Ja.

Betekén dit dan dat hulle nog nie by die gangetjie by die laan was nie? -- Ja, dit is so.

MNR. FICK : Het u enige plakkate gesien die dag van 3 September? -- Ja, die wat heel voor geloop het, het plakkate by hulle gehad.

Die plakkate wat hulle by hulle gehad het, het hulle (20) dit in hulle hande gehad of om hulle nek gedra of hoe het hulle die goed gedra? -- Dit was voor op hulle borste geplaas.

Het u gelees of kon u lees wat op die goed staan? -- Ek kon daarin slaag om 'n paar van hulle te lees.

Voor ons daarby kom, hoeveel plakkate ongeveer het u gesien? -- Minstens vier.

Dit wat u kon lees, wat het op die plakkate gestaan wat u kon lees? -- "Away with rent hikes, Away with councillors, Asinamali."

Die plakkate wat u gesien het, was dit gedrukte plak- (30) kate of was die goed met die hand geskryf? -- Dit was met die

... / hand

hand geskryf.

Die groep kom toe nou aan en die voorste klomp het die plakkate, wat gebeur verder? -- Terwyl hulle nog so aangestap het en besig was om te sing, het van hulle in hulle besit bottels gehad en 20-liter houers, dit wil sê blikke.

HOF : Plastiek of van blik? -- Dit is 'n blik, gemaak van metaal.

MNR. FICK : Die bottels, was dit glas bottels of kon u sien of dit plastiese bottels was? Kon u sien wat se soort bottels dit was?-- Ek kon sien dat die meeste van die goed van (10) plastiek gemaak was. Dit is eintlik wat gebruik word vir asyn en olie.

Kon u sien of die bottels leeg was en of daar enigiets binne-in was? -- Die bottels het iets bevat wat 'n vloeistof was, maar die blikke kon ek nie sien nie, want dit was van metaal gemaak.

HOF : Die blikke, was dit vierkantige of ronde blikke? -- Vierkantig.

MNR. FICK : Weet u waarvoor die tipe blik gewoonlik gebruik word? Is daar name op die goed of kon u nie sien nie? -- (20) Ek het nie opgelet of daar enigiets buite op hierdie blikke geskryf was nie.

HCF : Is daardie blikke soos hierdie vierkantige paraffien-blikke wat 'n mens kry? -- Ja, dit is so.

MNR. FICK : Die persone wat u gesien het wat hierdie bottels en blikke dra, het hulle in 'n groep bymekaar geloop of was hulle versprei oor die hele optog? -- Hulle het 'n gedeelte gevorm van die optog. Hulle het deelgeneem aan die mars.

HOF : Nou wil die advokaat weet, was hulle in een groep bymekaar in die mars of was hulle so rond en bont in die (30) mars? -- Hulle was orals in die mars.

... / MNR. FICK

MNR. FICK : Die mense wat nou die goed gedra het, kon u sien was dit ou mense, was dit jong jeugdiges of kan u nie sê nie? -- Die meeste wat ek gesien het, was die jeugdiges, al sal ek daar byvoeg dat ek nie in staat is om te sê of daar van die ouerige mense was wat dit ook gedra het nie.

Het u gesien wat van hierdie optog gebeur geword het toe hulle daar by u huis verbykom?

HOF : Ons het nie gehoor dat die optog by haar huis verbygekom het nie.

MNR. FICK : Is die optog by u huis verby? -- Ja. (10)

Het u gesien waar gaan hierdie optog heen toe hulle by u huis verby is? -- Ek het aanhoudend deur die venster gekyk totdat ek hulle in die steeg sien ingaan het, waarvan ek gepraat het.

U het gepraat van die mense wat voor geloop het het plak-kate gehad. Is hulle nog steeds as die voorste groep in die steeg in of is daar ander mense voor hulle in die steeg in? -- Hulle is die mense wat eintlik nog steeds voor gehardloop het.

HOF : Gehardloop of geloop? -- Hulle het so gedraf, nie vinnig nie, maar gedraf. (20)

MNR. FICK : Kan ons net een ding duidelik kry. Toe die klomp nou daar aangekom het en u hulle van die begin af dopgehou het by u huis verby en daarna die steeg toe, het hulle die heeltyd gedraf of het hulle toe gestap of wat is die posisie? -- Hulle het nie stadig geloop nie. Hulle het gemarsjeer en van hulle het gedraf.

HOF : Is dit nou toe hulle in die steeg opgaan of tot by die steeg gekom het? -- Hulle het gedraf toe hulle vir die eerste keer daar te voorskyn gekom het vanaf die rigting van Evaton tot hulle in die steeg was. (30)

Ek wil net duidelikheid kry, nou presies oor waar die huis

... / is

is waar u in was. My indruk is dat as 'n mens in die teerstraat staan en jy kyk in die steeg op, dan is daar aan jou linkerhand half agter jou skouer 'n bushalte. Is dit korrek?

MNR. FICK : Ekskuus, U Edele, ek het 'n vergroting van daardie kruising intussen gekry. Kan ek dit voor die getuie plaas? Dit is net 'n vergroting van daardie kruising.

HOF : Begryp die getuie daardie foto, want 'n getuie begryp dit gewoonlik nie. Was u al in 'n vliegtuig? -- Nog nooit in my lewe nie.

Laat ons dit nou maar op my manier doen. As 'n mens (10) nou voor die steeg staan en jy kyk in die steeg op, dan is daar agter jou die teerstraat. Is dit reg? -- Ja.

En dan loop die teerstraat agter jou rug verby na weerskante toe? Is dit reg? -- Ja, dit is reg.

En as jy dan 'n hele entjie terugkyk oor jou linkerskouer dan sien jy 'n bushalte of 'n busstasie? -- Aan my linkerkant? Ja, want as ek by die huis staan waar ek was en na die teerpad toe kyk, dan is daardie bushalte aan my regterkant. As ek nou in die gang staan en in die gang kyk met die teer agter my, dan is daardie bushalte aan my linkerkant. (20)

As u net daar bly staan en in die gang kyk, is u huis aan u regterkant of aan u linkerkant? -- Dit is aan my linkerkant.

Maar u wys nou na u regterhand. Wys vir my waar is u linkerhand? Watter kant is dit? -- (Getuie dui aan)

Na watter kant toe wys u nou? U wys met die linkerhand na die regterkant toe? -- Eintlik verstaan ek nie die vraag nie.

Ek sal dit nou maklik maak. U kyk nou in die laan op. Is die huis aan die tolk se kant of aan die hof se kant? -- Aan die tolk se kant. (30)

Dit is aan die regterkant. Hoeveel huise is daar tussen

... / daardie

daardie huis en die laan? -- Die huis waar ek was, is die tweede huis vanaf die huis op die hoek van die steeg.

MNR. FICK : Kon u sien wat daar met hierdie groep verder gebeur na hulle die steeg ingedraf het? -- Nee, hulle het toe verdwyn in daardie steeg. Ek kon nie sien wat met hulle gebeur nie. Ek het toe gaan sit.

Het u daardie groep daarna weer gesien daardie dag? -- Nee, ek het nie gesien wat toe van hulle geword het nie.

Het u enige plekke in die omgewing gesien waar daar rook trek of gebrand het die dag van die 3de? -- Ja, op 'n stadium het ek by die venster agter aan die huis gaan staan en kyk waar ek rook gesien het in die rigting van Motjeane se huis. (10)

HOF : Was dit voor of na die groep daar in die steeg op is? -- Dit is na die mense deur daardie steeg beweeg het.

MNR. FICK : Hoe lank daarna? -- Dit was 'n hele ruk gewees voor ek die rook gesien het.

Het u enige skote gehoor die betrokke oggend daar in die omgewing van vuurwapens? -- Ja, ek het gehoor dat daar skote afgevuur word, maar ek het toe gedink dit is miskien die (20) polisie wat skiet, want hulle was ook maar in die omgewing gewees. Hulle het daar beweeg.

Toe u die skote gehoor het, was dit voor of na u die rook gesien het daar by Motjeane se huis? -- Dit is voor die rook dat ek die skote gehoor het.

Het u op 'n stadium op die 3de daar gaan rondloop in die straat en gekyk na die rook wat u gesien het? -- Nee, ek het nie.

U het op 8 September 1984 teruggekeer na u huis toe? -- Dit is reg. (30)

Was u huis nog in 'n goeie toestand, was hy beskadig, was

... / daar

daar iets verkeerd? -- Dit was gebreek gewees.

Wat was gebreek? -- Die vensters aan die voorkant was beskadig, al die vensters aan die voorkant.

HOF : Was hulle gebreek? -- Ja, hulle was met klippe gebreek. Die dak wat van asbes was, was ook beskadig gewees.

Ook gebreek? -- Ja.

MNR. FICK : Was daar niks gebrand by u huis nie? -- Nee, niks was gebrand nie.

Ek wil net een ding opklaar. Toe u die skote gehoor het, dit is op 3 September terwyl u daar by u swaer se huis (10) was, u het gesê dit was voor u die rook gesien het. Was dit voor of na u die mense gesien het wat met die plakkate in die steeg inhardloop? -- Na die persone met plakkate daar verby is, het ek die skote gehoor.

... / CROSS-EXAMINATION

CROSS-EXAMINATION BY MR BIZOS: Mrs Phosisi would you mind telling us the name of the relative with whom you stayed during that weekend?

COURT: Is it relevant Mr Bizos?

MR BIZOS: Yes My Lord.

COURT: On what basis?

MR BIZOS: Well we may want to interview them My Lord, to check whether this woman is telling the truth or not.

COURT: Yes, go ahead, you have the address. -- Mr Mokoena.

MR BIZOS: And the address? -- 12726 Zone 11. (10)

What other people were there on the morning of the 3rd?  
-- Only we the family was present, and the children of course.

Which members of the family? -- Myself, my brother-in-law and his wife, and the children.

Are the children very young or are they youngsters?  
-- Two I would call they are youngsters, the others are still young, the other two are still young.

Tell me when were you asked for the first time to describe the events of the morning of the 3rd? To a police officer or to any advocate appearing for the State, when (20) were you asked for the first time? -- It was during September 1984.

Did you make a written statement in September 1984 as to what happened on the morning of the 3rd? -- Yes I made a statement.

About what happened on the morning of the 3rd, did you make that in September 1984? -- Yes beginning from the 2nd.

COURT: But was it made in September of 1984? -- Yes.

MR BIZOS: Have you made more than one statement or just one? -- Just one. (30)

Apparently your statement was made on 1 October.

COURT:/.....

COURT: Of 1984?

MR BIZOS: Of 1984. Have you made any other statements since that date? -- Do you mean since 1 October?

Yes. -- What happened is I was at the police station first from where I was taken to Houtkop, that is where I made a statement which was reduced into writing.

Very well. Now tell us would you mind telling us what time you woke up on the morning of the 3rd? -- I was up very early. In fact if one was to say I did not even sleep the night of the 2nd to the 3rd. (10)

And you must have been awake say between 06h00 and 09h00?  
-- Yes.

COURT: On the morning of the 3rd?

MR BIZOS: On the morning of the 3rd. -- Yes.

And before you heard these people singing and marching towards the lane did anything untoward happen in the lane or in its immediate vicinity? -- I cannot recall anything else happening.

Right. So before you saw this march coming into the lane you heard no shots?-- No I heard no shots prior to that (20)

You heard no one running up and down the lane? -- No I did not hear that.

You did not hear the noise of police vehicles coming to the immediate vicinity, stopping and people scattering?-- I saw the vehicles.

But you did not hear anybody scattering? -- No I did not.

You did not hear any stones breaking windows or landing on the roof, of any roof? -- No I did not hear that.

You did not hear anybody crying for help? -- No I did not hear. (30)

So we can have this then Mrs Phosisi that peace reigned  
in/.. ..



in your neighbourhood right up to the time that the march of these people coming up from the Evaton side reached the lane? -- No I did not hear anything until at the time when I heard the noise from these people.

Right. Now will you agree that if anyone threw stones on Mr Caesar Motjeane's roof from 06h00 that morning on a number of occasions you would not have failed but to hear them?

COURT: On his room or on his house?

MR BIZOS: On his roof.

(10)

COURT: Roof?

MR BIZOS: Roof. -- I did not hear that.

Yes. And if shots or bursts of fire were taking place from before, well from 06h00 on a number of occasions from Caesar's house you could not have failed to hear it? -- Though you put it that way but I did not hear it. In addition I was myself shocked.

Yes but you see in your state of shock you managed to see everything that would support the State's case in relation to this march and the violence to Caesar's house but (20) nothing else? -- I did see that through a window, though I was shocked. In fact I was fearing that these people may decide to come into the house where I was.

Tell me you did not by any chance, whilst you saw this group of marchers going towards the lane possibly see another group running away down the lane in the opposite direction? -- No I did not.

And you did not hear any shots by any chance before, before any people on the march went into the lane? -- No I did not hear any shooting. (30)

You see because the evidence of one or two people living  
in/.....

in the neighbourhood told us that there was a running battle between groups of youngsters from 06h15 right up to the time of his death, coming to Caesar's house, stoning it, going away, shooting, stoning, running down the lane. What do you say to that? -- I am not going to tell lies. I did not hear that and I could not hear that because during that time I was most of the time staying there with fear.

Well were you more afraid or less afraid after the marchers came from the Evaton side? -- It added to my fear.

I see. Just one other aspect I want to ask you. You (10) may not have known it on the 3rd but since the 3rd have you seen young people with containers with water as, with water in them as a protection against the teargas? -- I came to hear about that later.

Yes. But people that think that they may be exposed to teargas carry water with them in order to wash their face and to put wet lappies on their faces? -- Well maybe those containers they had with the liquid were meant for that purpose. I do not know.

Now near your house, near your house, be it on the (20) left-hand side or on the right-hand side ...

COURT: That is the brother-in-law's house.

MR BIZOS: I am sorry, yes the house that you were at, I am sorry. Be it on the left-hand side or on the right-hand side, if anybody shouts loudly and clearly and is on the corner would you hear what that person is saying?

COURT: From which corner?

MR BIZOS: From the corner of the lane and the tarred road.

-- Shouting in which way, what manner?

Well shouting, "Come let's go"? -- I could hear that. (30)

Did you hear any shouting from anybody whilst people

were/.....

were coming towards the lane? -- You mean any person?

Yes. -- With a clear voice shouting that I could have heard that person.

But you heard nothing? -- I heard nothing, as I explained to His Lordship that I was most of the time there staying with fear.

Are you sure that you stayed at the window and you did not take cover in one of the inside rooms? -- I looked through the windows. I did not take any cover.

But now, and after you went to the back window and (10) you saw that did you come back to the front window? -- No I took a seat in that house because the portion in which I was seated is in fact the front of the house.

I see. Tell me can we take it for granted from what you have already told us that this group that went up the lane towards Caesar's house never came back down the lane? -- I did not see the people coming back from that direction.

Would there have been anything to prevent you from seeing this thousand odd people that you have mentioned coming back down the lane if in fact they went up and they came back? (20) -- There was nothing to obscure my view because the windows of that house are in such a position that they are so low that one can see through the windows.

So if they did come back, if they did come back or a substantial portion of them came back you would not have failed but to see them? -- It could not have happened that I did not see that.

COURT: Did the whole procession go up the lane or only a portion thereof? -- That group which was in my view at the time when I was standing at the window went through that (30) passage, all of them.

MR BIZOS:/.....

MR BIZOS: How big do you say that that group was? -- As I said earlier thousand plus.

You say that you saw over a thousand people going up the lane, is that what you are saying? -- Yes.

And if the evidence thusfar has been that there were a couple of dozen people that went up the passage what would your reaction to that suggestion be? -- Well I will tell the Court what I saw happened there and not what the other person saw happening.

I see. But now that was not the road to Houtkop was (10) it? -- No it was not.

COURT ADJOURNS UNTIL 24 MARCH 1986.