

SAAKNOMMER: CC 482/85

DELMAS

1986-05-06

DIE STAAT teen:

PATRICK MABUYA BALEKA EN 21

ANDER

VOOR:

SY EDELE REGTER VAN DIJKHORST EN

ASSESSORE: MNR. W.F. KRÜGEL

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

KONTRAKTEURS:

LUBBE OPNAMES

IN CAMERA WITNESS NO. 11: d.s.s. (Through Interpreter)

FURTHER CROSS-EXAMINATION BY MR BIZOS: Now would you agree that there, as a cadet broadcaster, that it was generally accepted that the formation of the UDF was a matter of considerable national and international importance? -- Yes I will agree with you.

And you heard all about the UDF on all the radio stations that you were monitoring? -- As I have already told the Court that during those days it was not my turn to be monitoring the news from the different stations. I am therefore not (10) in a position to deny that.

And would you agree that when you saw the video of the UDF launch in Lesotho that you and the other people there were hungry for this national and internationally important event to be seen live so to speak on a video? -- That is true. In fact we had a reason to be interested in seeing that because we were not present at the launching of the organisation.

Yes. And did you find that in your travels different people use the word "democratic" in different ways? -- As far as I am concerned I took "democratic" to mean what I under-(20) stood it to mean. I cannot recall coming across any other person using "democratic" to mean a different thing from what I know it to mean.

Well I do not want to debate it with you at length but does the German Democratic Republic put its own meaning on what democracy means? -- Unfortunately I did not investigate to find out exactly how do they use it in their usage of the word "democratic". It may be that it was my ignorance that I just took it to mean what I understand it to mean originally.

Yes. No what I am putting to you is that the German (30) Democratic Republic, the United Kingdom, the ANC, the Republic of/.....

of South Africa put different interpretations on the words democratic organisation or a democratic state. -- I am quite happy that you informed me about that. I did not know.

And I am putting to you that the ANC is not alone in putting a meaning on democratic organisation or a democratic state or a democracy. -- I would not dispute that because ANC does not exist alone, it also exists within the world of the people.

Tell me you listed what were ANC publications. Are you sure that every one that you listed is an ANC publication? (10) -- If I remember well the question put to me was what kind of books are being found in the libraries of the ANC. If it was asked from me for instance to be specific and say which journal has got to do with the youth, which one has got to do with that organisation I would have done so.

Yes. Well you are not suggesting that the "African Communist" is an ANC publication? -- Yes it is not a publication of the ANC but it does make mention of the ANC. Again it is being read within the ANC.

Yes I am sure. Now, and the list of publications that (20) you gave us was what was in the library? -- They are available.

Yes. Now can you please tell us whether you know of your own knowledge, or from information that you have gathered whilst you were a member of the ANC beyond the borders of the Republic of South Africa how many young people such as yourself might have actually infiltrated or might have infiltrated into the Republic of South Africa during 1983 and 1984?

COURT: Are you meaning as undercover or semi-undercover?

MR BIZOS: Both My Lord. Infiltration, coming in order to (30) do ANC work. Coming to do the work of the ANC. -- From the

training/.....

training I received in the ANC about security reasons I was not interested to know how many people infiltrated and what their missions were.

Was it the policy of the ANC to send in people such as yourself? -- To?

Was it the policy of the ANC to send young people such as yourself in order to do clandestine work? -- Yes if they deem it necessary that a person must come into this country then they send a person to come in.

In order to do clandestine work? -- Yes that is so. (10)

And I think you have already told us, but I just want absolute clarity on it, you, the four people that you worked with in the border district were people to whom you had given crash courses in Lesotho and they too had become members in a sense of the ANC? -- I would not say they were full members of the ANC.

Associate members? -- Yes.

Yes well, and you confined your activities and your co-operation in this small group for security reasons? -- That is correct because I would not just go and meet a person (20) who is also sent into the country on another mission without having been instructed to go and meet that person, then try and make an endeavour to meet that person.

So you are telling His Lordship that members of the ANC who come in in order to do clandestine work are security conscious and they do not broadcast the fact that they are members of the ANC around for people to hear? -- That is supposed to be their behaviour, yes.

Yes. Now tell me when you came to the border district did you try and find out what the day to day issues were? (30) Or did you not have the time? -- I did try.

Well do you think you succeeded? -- I was still busy trying to assess that. As a result I am not in a position to tell whether it was a success or not.

I see. One aspect that I would like to deal with with you is could you please tell us how long after you were detained did you make a statement of the things that you have told His Lordship about in this court, how long after your detention? -- I do not understand. Do you want me to explain about the statement which I am talking about now in details or are you talking about the statement which I made(10) immediately after my arrest?

Well/....

Well, did you make a statement immediately after your arrest?
-- Yes, I did.

And did you say in your statement immediately after your arrest all the things that you told His Lordship yesterday and today? -- Not everything. Although I did make mention of some small portions, not in full detail.

Well, let us confine ourselves to the matters - accused no. 14 is back, My Lord. Let us just confine - did you make a special statement for this case? -- Yes, there is.

Where did you make your statement in connection with (10)
this case? -- During last year.

1985? -- Yes.

What month? -- In September. That is if I am not mistaken.

Were you still in custody? -- No, it is after I was released.

For how long did you remain in detention before you were released? -- I do not understand the question.

For how long did you remain in detention? (Intervention)

COURT: Well, did she not tell us when she was arrested and when she was released?

MR BIZOS: Well, I do not remember the date of release. (20)

COURT: You worked backwards from the date of release yesterday.

MR BIZOS: I have forgotten about it. If Your Lordship would remind me, if Your Lordship has a memory of it.

COURT: I have also forgotten it, Mr Bizos, but it was not that important to me.

MR BIZOS: Well, when were you released? -- If I still remember well it was about the end of July last year, which is 1985.

In September when you made your statement, were you completely free or were you under some form of protective guardianship of sorts. -- I did not have any guards with me. (30)

No, I am sorry, I should not - were you staying at home? --

No, I was not staying at home.

Were you staying in a place at which police had made arrangements for you to stay? -- No. Although the police knew where I was staying.

Who absolved you from the offences that you had committed at the time of your release, if anybody? -- I was told in court that if I were to give satisfactory evidence before the Court I won't be prosecuted for whatever crimes I committed.

Who told you that? -- The magistrate told me that.

The magistrate? -- I cannot quite remember whether it (10)
was a magistrate or a prosecutor, but one of them told me.

Where? -- That is in Burgersdorp.

Did you give evidence in Burgersdorp? -- Yes.

In what sort of case did you give evidence in Burgersdorp?

MNR. FICK: U Edele, die Staat maak beswaar. Dit is totaal irrelevant. Ek weet nie wat is die idee van hierdie vraag nie.

COURT: How is this relevant, Mr Bizos?

MR BIZOS: Well, the circumstances under which she came to make this statement is relevant.

COURT: But this was not when she made this statement. (20)

MR BIZOS: But I understood that it was before ...

COURT: When did you give this evidence, before or after your statement? The evidence in Burgersdorp. -- Before I made a statement.

MR BIZOS: I submit that it is relevant.

COURT: How is it relevant?

MR BIZOS: Presumably she has given evidence there, we are entitled to check whether she has been consistent with herself. We are entitled to probe as to what she has said there. We would in the ordinary course of events be entitled to investigate the matter.

I do not know what the objection really is with respect. Why ..? (30)

COURT: Merely because it is irrelevant. That is the objection.

MR BIZOS: No, I submit, with respect, I have never been stopped in asking if you have given evidence in a previous case, which case it is. I do not understand the sensitivity on the part of the State.

HOF: Ja, mnr. Fick?

MNR. FICK: Die getuie het gesê - dit het nou voor die Hof uitgekom al dat hierdie getuie het hierdie verklaring waaroor sy nou getuig, het sy gemaak na daardie saak. Dit is 'n ander saak, dit is ander beskuldigdes. Met alle respek ek kan nie die relevantheid sien tussen haar getuienis hier, wat My Geleerde Vriend probeer toets in 'n heeltemal ander saak nie. (10)

COURT: It can have no bearing on her statement.

MR BIZOS: No, My Lord. With the greatest respect, are we not entitled to check whether she may have told demonstrable untruths in that.

COURT: What was the case about? It may have been an accident.

MR BIZOS: No, it could not have been that because we were told that she was warned that if she gives evidence in that case she would be absolved. So, to that extent I think we can - we do (20) not have to worry about that being irrelevant.

COURT: Yes well, put your question, Mr Bizos. Let us see where it goes.

MR BIZOS: When did you give evidence in Burgersdorp? -- I cannot quite remember as to when it was.

Well, let us start ..

COURT: Did you deal with the evidence that you gave in this case in that case? -- No. The evidence I gave there was in fact only for that case which was being tried there and is not the evidence I am giving here now. (30)

MR. BIZOS: Didn't you speak about your activities in that case?

-- I did/..

-- I did, but what I am trying to say is this, the statement I made which was used there in leading my evidence is not exactly the same in facts as this one that I made in this case.

Would you mind telling us what the name of the first accused was in that case? -- No, I cannot remember what the name of the person was.

How many accused were there? -- Eight.

Give us the name of anyone of the accused, please, in that case. -- Nsikilelo Gqacu.

Anyone else whose name you can remember? -- Zele Nomeba. (10)

Were you still in detention when you gave evidence? -- Yes.

For how long more or less had you been in detention before you gave evidence in that case? -- If I were to guess it was more than seven months that I was in detention.

Was it in the middle of 1985, during the winter months in 1985 that you gave evidence about this? -- It could be in the middle of 1985.

My Lord, I have finished with the witness on the information that is available to us now. I do not ask for the witness to stand down. I am informed that there may be one or two (20) small matters that my associates may want to put to her and I see that it is almost the time to adjourn.

COURT ADJOURNS FOR TEA. COURT RESUMES.

COURT: Have you got your second wind yet, Mr Bizos?

MR BIZOS: My Lord, having given the democratic process its due I still have ...

COURT: In what sense democratic?

MR BIZOS: The way I understand it (laughs). I still have no further questions.

IN CAMERA GETUIE NR. 11 (Nog onder eed) (30)

HERONDERVRAGING DEUR MNR. FICK: Net een aspek wil ek by u

verneem in verband met SACTU. Duidelikheidshalwe is daar 'n verband tussen SACTU en die ANC? -- Ja.

Wat is die verband? -- U Edele, mag ek dit miskien in Engels verduidelik?

HOF: Ja. U moet net nie te vinnig praat nie. Ek wil dit afskryf. -- In fact the alliance between SACTU and the ANC is historical. Starting from the formation of the Congress Alliance.

Yes? -- When SACTU was formed it joined hands, itself with the Congress Alliance, that is with the Congress of Democrats, the Coloured People's Congress and the ANC. When the ANC (10) was formed - was banned, that bond still remained.

Yes? -- If I had to quote the historical part of it, at one stage - I would quote from one of the books which are read in the ANC which is a SACTU book Organise or Starve.

Yes? -- When chief ...

Did you give the name of the book now? -- Yes, Organise or Starve.

Organise or Starve? -- Yes.

Yes? -- When Chief Albert Luthuli said that if you are a member of the congress you must also be a member of the trade (20) union, and vice versa which meant that the struggle in South Africa is both political and economical, and now the time that I was still in the ANC there was a committee which existed ..

What was still in the ANC? -- When I was still in the ANC.

When you were still in the ANC, yes? -- There was a committee which existed which was called the Political Military Committee which consisted of both the ANC, the South African Communist Party, SACTU and Umkhonto We Sizwe members.

MR BIZOS: My Lord, I do not want to interrupt My Learned Friend or the witness, I do not remember asking any questions in (30) cross-examination about the relationship between these two bodies.

I was quite happy to leave it for a while, but it is quite clear from the witness's evidence that she is speaking of events, some of the events, to my recollection, that occurred before she was born probably. If she is setting up herself as an expert, I would welcome that, because then I would like to cross-examine her ..

COURT: She is giving you a historical perspective of what she read somewhere.

MR BIZOS: Yes. Well, perhaps we should leave that to historians and not some lecture that a young woman may have learnt off by heart somewhere in English and she wants to repeat in English. (10) I do not know, with the greatest respect, whether it arises out of cross-examination or whether this person is capable of speaking about these matters, and I object on both grounds.

MNR. FICK: U Edele, My Geleerde Vriend het in kruisverhoor probeer uitmaak in verband met die dokument AE30, of sy opgetree het namens SACTU, namens die ANC, namens UWO of namens wie het sy opgetree toe sy daar opgetree het en toe sy gestuur is in die binneland, terug na die Republiek toe. Nou probeer ek net aan die Hof tuisbring wat die verhouding is, in watter hoedanigheid het sy werklik hiernatoe gekom. Dit is een en dieselfde ding. (20)

HOF: Ja, maar u het dit nou so wyd gestel dat 'n mens 'n dag lank daaroor kan debatteer.

MNR. FICK: Ek het 'n kort vraag gestel, sy het 'n lang antwoord gegee.

HOF: Ja, maar 'n mens kan met 'n kort vraag 'n lang antwoord uitlok.

MNR. FICK: Dit is so, U Edele. Dit was nie presies my ...

HOF: Wel, wil u voortgaan of wil u hier ophou?

MNR. FICK: Ek wil net dat sy net die antwoord klaarmaak.

HOF: Wel, dan sal ek mnr. Bizos 'n geleentheid gee om te kruisvra daaroor as hy dit vra. Ja? Yes, will you finish your answer. -- So, what I was trying to imply was that myself, I was a

member of the ANC, a member of Umkhonto We Sizwe and also a member of SACTU.

MNR. FICK: Dan wil ek vir u iets vra in verband met BEWYSSTUK AE30. U het onder kruisverhoor - is vir u gevra of 'n kopie van hierdie dokument by SACTU uitgekom het en u het gesê ja, dit het SACTU bereik. -- Ja.

Was daar enige reaksie van SACTU-kant in verband met die kopie van die dokument wat hulle gekry het? -- Soos ek alreeds gesê het, ek het 'n mondelinge verslag aan SACTU gedoen na hierdie dokument deur my uitgereik was en daarna kon ek toe nie (10) weer met SACTU in verbinding tree nie omdat ek gearresteer was, dus kan ek nie sê wat die reaksie van SACTU was na die ontvangs van hierdie pamflet nie.

HOF: Nee, die vraag is, ons het gehoor dat u verduidelik het dat u mondelings aan SACTU verslag gedoen het. Op 'n stadium het u gesê dat 'n kopie van AE30 by SACTU uitgekom het. U het nie die kopie vir SACTU gegee nie. -- Ja.

Op grond waarvan sê u dan dat 'n kopie van die dokument by SACTU uitgekom het? -- Dit was as gevolg van 'n rapport wat ek gehoor het van iemand anders wat later Lesotho toe gegaan (20) het wat aan my gesê het dat die dokument SACTU bereik het. Ek het hom toe nie verder gevra wat SACTU se reaksie was na die ontvangs van hierdie dokument nie.

Wel, ons weet presies hoe om met daardie getuienis te handel, mnr. Bizos.

MR BIZOS: As Your Lordship pleases.

MNR. FICK: Dan net een vraag daarop, het u van u kant enige instruksies gegee dat van hierdie dokumente na SACTU moet gaan? -- Nee, ek het geen so 'n instruksie gegee nie.

Geen verdere vrae.

(30)

FURTHER CROSS-EXAMINATION BY MR BIZOS: Do you know when the

late Chief Albert Luthuli died? Come you wanted to give us the history of the ANC. He was the president and a Nobel Prize winner. An important person in the ANC. When did he pass away? If you do know say so, we can go on to the next question. -- I am not quite clear in memory during what period he died. If my memory serves me well it was during the sixties.

Tell me, this statement of his that if you are a member of the ANC you must be a member of SACTU and vice versa, did he say it before or after the ANC was declared an unlawful organisation? -- It was before it was banned. (10)

Now, I do not want a long answer or a long explanation. Do you know whether SACTU is a body to which individuals can become members or is it only a federation of trade unions? -- It is supposed to have organisations affiliating to it.

And the only thing that you can say about SACTU presumably is that you were employed by it as a typist? -- I was not employed as a typist. As I have said that I only went to assist, not that I was employed as a typist.

You assisted by typing? -- Yes.

Tell me, did you attend any of these high-powered meetings that were held between the ANC, SACTU, Umkhonto We Sizwe and the Communist Party? Were you invited to any of such meetings? -- No, I was just a rank and file and I would not attend such meetings. (20)

Of course not. We have no further questions, thank you.

NO FURTHER QUESTIONS

MR BIZOS: My Lord, I did indicate to My Learned Friends that there is a possibility, as a result of - we did not think it necessary to ask Your Lordship for the witness to stand down for us to check a couple matters about which we have some vague information. If it becomes necessary for us to address you in an (30)

application/..

application to Your Lordship for the recall of the witness if certain of it turns out to be correct, then I would ask our Learned Friends co-operation in bringing her back when we have made the application.

COURT: Well, in the meantime we won't keep her in the precincts of the court.

MR BIZOS: No, she can go.

MNR. FICK: U Edele, mag ek verskoon word. Mnr. Jacobs sal die volgende getuienis aanbied?