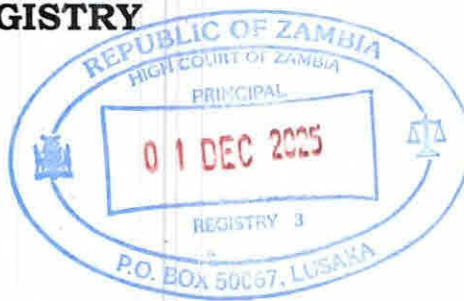


**IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA**
(Civil Jurisdiction)

2023/HP/382



BETWEEN:

MORGAN KALEMBWE

AND

THE ATTORNEY GENERAL

**BEFORE HONOURABLE JUSTICE I. M. MABBOLOBOLO IN
CHAMBERS ON THE 1ST DAY OF DECEMBER, 2025.**

For the Plaintiff: *Ms. M. Mushipe and Ms. E. Sikombwa of
Mesdames Mushipe and Associates*

For the Defendant: *Mr. J. Moyo, Ms C. Hakalima and Ms. B.
Mwanza from the Attorney General's
Chambers.*

JUDGMENT

A. CASES REFERRED TO:

1. *Zambia Railways Limited v Pauline S. Mundia and Brian Sialumba Appeal No. 90/2011 SCZ/8/105/2011;*
2. *Masauso Zulu v Avondale Housing Projects (1982) ZR 172;*
3. *Anderson Kambela Mazoka and Others v Levy Patrick Mwanawasa and Others 92005) ZR 138;*
4. *Richman Chulu v Monarch (Z) Ltd (1983) ZR 33;*
5. *Ginski v McIver (1962) ALL ER 696;*
6. *Mutemba v Zambia Newspaper Ltd and Another (1972) ZR 107;*
7. *Attorney General and Others v Masauso Phiri (2017) ZR 84;*
8. *Atlas Copco Zambia Limited v Malambo (2018) ZMCA 96;*
9. *Mubita Mbanga v The Attorney General (1979) ZR 234;*
10. *Stanley v Annets and Another ?(1969) 3 ALL ER 1541;*
11. *Anti- Corruption Commission v Charles Sambundu SCZ No.054/2013;*
12. *J.Z. Car Hire Limited v Chala Scirroco Enterprise Ltd SCZ No. 26 of 2002*

13. *Mhango v Ngulube and Another* (1983) ZR 61;
14. *Attorney General & Others v Felix Kaleya* (1982) ZR1;
15. *Lewis Mosho v Matildah Phiri*
16. *Cobbet Tribe v Zambian Publishing Company Ltd*
17. *Justine Mbita Silumbwe v Baclays Bank Appeal No. 90/2011 SCZ/8/05/29; and*
18. *Attorney General v D. G Mpundu* (1984) ZR6 (S.C).

B. LEGISLATION REFERRED TO:

1. *State Proceedings Act Chapter 71 of the Laws of Zambia;*
2. *Criminal Procedure Code Chapter 88 of the Laws of Zambia;*

1.0. INTRODUCTION

- 1.1. This is a Judgment in an action which was commenced by way of Writ of Summons and Statement of Claim on 6th March, 2023.
- 1.2. The Defendant has been sued by virtue of **Section 12** of the **State Proceedings Act Chapter 71** of the **Laws of Zambia**.

2.0. PLEADINGS

- 2.1. The Plaintiff claims that he was at all material times a Zambian national resident, in Nakonde and a member of the United Party for National Development (UPND), a political party duly registered in Zambia.
- 2.2. The Plaintiff would aver that on 3rd October, 2019, while in Nakonde, he received a call from some people who tricked/enticed him that they had some documents for his client which he was required to collect from them. That when he arrived at Kumbi, the agreed meeting place, he realized that the people who had called him were actually known Patriotic Front (PF) cadres armed with machetes and pangas.

- 2.3. According to the Plaintiff, he was roughed up like a common criminal while being beaten by the cadres, who loaded him into the boot of a Toyota Vitz Motor Vehicle and subsequently transported him to Nakonde Police Station where he was handed over to the Police with instructions that *“This UPND cadre insulted bakateka please deal with him”*.
- 2.4. The Plaintiff would aver that the said cadres continued beating him, tied ropes around him whilst scolding him for the post he was alleged to have made *“Nakonde people are seeing the temporal tarmac road after two decades of using gravel because ibalya insoka balaisa mailo”* which the cadres interpreted to be an insult to the Republican President Mr. Edgar Chagwa Lungu who was scheduled to visit Nakonde on 4th October, 2019, or thereabout.
- 2.5. It would be the Plaintiff’s averment at trial, that when they reached Nakonde Police, the said cadres took the Plaintiff straight into the Criminal Investigations Officer (CIO)’s Office where they continued beating him mercilessly, threw him under the table in the office, following which he lost consciousness and all this was happening in the presence of the CIO who left his office leaving the Plaintiff at the merciless hands of the cadres.
- 2.6. According to the Plaintiff, when the CIO returned to his office, he found the Plaintiff lying on the floor unconsciously and the cadres had left. That the CIO waited for the Plaintiff to regain consciousness before telling the Plaintiff that the said cadres had gone to the Police earlier in the day to report that the Plaintiff had insulted the then Republican President, Mr.

Edgar Changwa Lungu, through a post on WhatsApp platform dubbed "Hottest Seat 3".

- 2.7. The Plaintiff would aver that after the said Police Officer had completed inspecting the Plaintiff's phone, he was thrown in the cells where the Plaintiff found that the said cadres had bought assorted food stuffs for the other inmates with instructions to the captain of the cell to beat up the Plaintiff when thrown into the cells. That the inmates continued beating the Plaintiff until he paid them K500.
- 2.8. That further to the above, the Plaintiff would aver that the excessive injuries/sufferings were inflicted on him and as such, he was subjected to torture, inhuman, degrading treatment and punishment. That the particulars of injury were cuttings, bleeding, swollen face/neck and permanent scaring of arms, thighs, ears and the head.
- 2.9. The Plaintiff would aver that his arrest and assaults were effected in a brutal and horrifying manner and by virtue of such, he suffered aggravated assault. That his physical and emotional injuries also heightened hence suffering aggravated assault whose particulars are:
 - i) *infliction of severe and deliberate pain for the purposes of obtaining a confession and incriminating information on other individuals*
 - ii) *use of prohibited instruments of torture for the purposes of inflicting unbearable pain.*

iii) psychological trauma, intimidation and infliction of torture by cadres in the presence of Police Officers against a single defenseless, non violent suspect.

iv) detention at Nakonde Police and being severely beaten by inmates who were instructed to do so thereby inflicting excessive punishment on the Plaintiff before he was proved guilty by any competent Court of law.

2.10. According to the Plaintiff, the Police arrested him without conducting any professional investigations into the commission of the alleged offence but merely on instructions from the said political party cadres/officials and other Senior Government Officials from Muchinga Province.

2.11. The Plaintiff would aver that had the Defendant's agents conducted themselves professionally, they would not have arrested and charged the Plaintiff with the trumped-up offence of Defamation of the President owing to the fact that all allegations levelled against him were impracticable, politically motivated, baseless and malicious. That the particulars of the charge were that:

“Morgan Kalembwe on 3rd October, 2019, at Nakonde in the Nakonde District of the Muchinga Province of the Republic of Zambia is accused with the offence of intent to bring the President into hatred, ridicule and contempt, published defamation or insulting matter by writing ‘Nakonde people are seeing the temporal tarmac road after two decades of using gravel road because balya insoka baleisa mailo’.

2.12. According to the Plaintiff, the Arresting Officer also confirmed that he arrested the Plaintiff on instructions from a named Deputy Chief State Advocate from the National Prosecution Authority. That the investigation and prosecution by Defendant's agents lacked reasonable and probable cause in that there was no evidence whatsoever that the Plaintiff had committed the alleged offence. That the particulars of the false imprisonment and malicious prosecution are:

- i) arresting and detaining the Plaintiff for 5 days before investigations.*
- ii) whilst in detention at Nakonde Police Cells, the Plaintiff was mercilessly beaten, developed sickness and was denied access to medical treatment by the Police Officers.*
- iii) during the course of the trial of the Matter, **The People v Morgan Kalembwe (Cause No. INE/39/2021**, no witness was called to justify that the Plaintiff had committed the alleged offence or that the allegation amounted to Defamation of the President.*
- iv) the Defendant's agents forced the Plaintiff to say what they wanted to hear in order to implicate himself without truth.*
- v) there was no reasonable ground and justification for suspecting or drawing an inference that the alleged writing and posting that "the President ate roasted snake meat was defamatory to the President.*

- 2.13. With respect to the arrest and prosecution, the Plaintiff states that he went through a lengthy and undesirable trial under Cause No. INE/39/2021 and to that effect had to spend a lot of money on Advocates travelling from Lusaka to Nakonde mostly through Air transport.
- 2.14. The Plaintiff would aver that on 4th June, 2021, the Subordinate Court at Nakonde dismissed the case and acquitted the Plaintiff pursuant to **Section 206** of the **Criminal Procedure Code Chapter 88** of the **Laws of Zambia**. That the conduct of the Defendant in setting in motion the criminal process was fueled by malice and odium for being a member of the UPND, the largest opposition political party and that there was no probable cause to commence or continue the prosecution thereof.
- 2.15. The Plaintiff would aver that despite not committing the said offence and the subsequent acquittal, it remained in some people's minds that the Plaintiff had really committed the said offence and as such he had lost integrity with his character extremely defamed. Further that the former Minister of Home Affairs, Mr. Stephen Kampyongo had instructed cadres in Nakonde not to allow the Plaintiff to leave Nakonde.
- 2.16. Related to the above Paragraph, the Plaintiff would aver that his business of importing cars, reselling and delivery of the said vehicles was grossly affected. That whenever he attempted to leave Nakonde, word quickly went round and the cadres regrouped and harassed him on account that he was violating the Minister's instructions.

2.17. The Plaintiff would aver that his reputation as a businessman was tarnished in that he lost business opportunities arising from his arrest and baseless prosecution. That the arrest and prosecution resulted in economic loss, massive loss in his business and extreme damages. The particulars of special damages claimed are:

i) loss of business as a result of prolonged detention in the sum of ZMW2,850,000.00.

ii) costs incurred in relation to the Plaintiff's relocation to Southern Province for safety as a result of the Defendant's agent's failure or omission to protect him from harassment in the sum of ZMW 1,6000.000.00.

iii) legal fees expended on Defence Counsel in the trial in the Subordinate Court at Nakonde wherein the Plaintiff was maliciously being prosecuted in the sum of ZMW 280,000.00.

iv) the Plaintiff upon his release from police custody had to incur further costs for his medication and tests in the sum of ZMW35,000.00.

The total amount in special damages was said to be ZMW4,765,000.00.

2.18. According to the Plaintiff, premised on the said arrest, detention, investigation and prosecution, he has suffered emotional distress, pain of body and mind, grave injuries to his reputation, inconvenience and disturbance of even the tenor of his life. He set the particulars of this as:

- i) the Plaintiff's reputation has suffered great injury in that the public in general perceives him to be associated with criminality.*
- ii) as a result of the broken reputation, the Plaintiff has been deprived of an opportunity to earn a reasonable living and to retain his business associates.*
- iii) the Plaintiff has suffered stress and hardships to rebuild his life and to earn trust and confidence by the business community and general members of the society.*
- iv) the arrest of the Plaintiff was malicious and his reputation was brought into public odium and was tarnished.*
- v) the Plaintiff's arrest was broadcasted on all major media houses such as Zambia National Broadcasting Corporation, Prime Television, Muvi Televisions and all Radil Stations during news time.*

2.19. That by reasons set out above, the Plaintiff has suffered loss, inconvenience and damage and therefore claims the following reliefs.

2.19.1. Compensation for false imprisonment and malicious prosecution in the sum of ZMW3,5000.000.00.

2.19.2. Compensation for loss of business in the sum of ZMW2,850.000.00.

- 2.19.3. *Compensation in the sum of ZMW1,600.000.00 for harassment and lack of protection from the Police that forced the Plaintiff to relocate his family to Southern Province.*
- 2.19.4. *Compensation for legal fees in the sum of ZMWK280,000.00.*
- 2.19.5. *Damages for mental anguish, turmoil and distress suffered by the Plaintiff as a result of the unlawful detention and malicious prosecution.*
- 2.19.6. *General damages for physical hurt occasioned by the Defendant's agents.*
- 2.19.7. *Aggravated damages for torture and brutality committed by the Defendant's agents.*
- 2.19.8. *An order for interest on sums found due.*
- 2.19.9. *An Order for costs incidental to the Proceedings.*
- 2.19.10. *Any other relief the Court shall deem fit.*
- 2.20. The Defendant's Defence was filed out of time on 14th July, 2023, with leave of Court granted earlier on 11th July, 2023.
- 2.21. The Defendant stated that the contents of the Plaintiff's claim alleging him being roughed up and beaten up by known PF cadres who were armed with machetes and pangas was within the Plaintiff's peculiar knowledge and the Defendant would aver that the Police do not take orders from cadres.
- 2.22. The Defendant made no comment regarding the claim for the beating of the Plaintiff but states that the Plaintiff wrote

a text on a WhatsApp group with the following words *“Nakonde people seeing a temporal tarmac after two decades of using gravel road just because balya insoka balaisa.”* That it was averred that upon seeing the said text in the WhatsApp group, members of the public took it upon themselves to apprehend the Plaintiff and handed him over to the Police.

- 2.23. The Defendant denied the assertion that the Plaintiff was beaten by the cadres at the Police Station and stated that the Plaintiff was reported to the Police for Defamation of the President.
- 2.24. The Plaintiff’s claims regarding being subjected to torture, inhuman treatment, brutal arrest without the Police having conducted any professional investigations were all denied by the Defendant who would put the Plaintiff to strict proof regarding the claims.
- 2.25. The Defendant denied the claim by the Plaintiff that he was arrested before any investigations were conducted and stated that there was reasonable and probable cause for arresting the Plaintiff.
- 2.26. Regarding the claim of arrest and prosecution, the Defendant only admitted the claim to the extent that the Plaintiff underwent trial and was acquitted on 4th June, 2021.
- 2.27. It was the Defendant’s position that the Plaintiff is not entitled to any of the reliefs sought in the Statement of Claim and that except where it has been expressly

admitted, the Defendant denies each and every allegation of facts contained in the Plaintiff's Statement of Claim.

2.28. In his Amended Reply filed on 21st October, 2024, the Plaintiff largely reiterated his claims as set out above. He stated that contrary to what the Defendant had indicated, it was clear from the onset that he did not commit any offence material to defamation of the President and as such the submission of the docket to the National Prosecution Authority was solely calculated to justify a malicious plan and to prolong the Plaintiff's suffering due to his political affiliation.

3.0. THE HEARING

3.1. At the hearing held on 21st October, 2024, the Plaintiff for his evidence in chief, placed reliance on his Amended Witness Statement filed on even date with leave of Court. He largely repeated what is in his Statement of Claim but with names included. (I will refer to him as **PW1**).

3.2. **PW1**'s testimony was that when he received the call on 3rd October, 2019, around 09:00 hours from Ernest Chipako, a Patriotic Front cadre, to go and collect some documents, he drove to the meeting place advised in the company of his friends Mr. Fred Chimeya and Mr. Edward Silomba.

3.3. That as he was walking towards the booth where talk time was being sold, he was manhandled and overpowered by a group of five men who placed him on the back seat of the vehicle after failing to bundle him in the boot and drove him to the Command Centre of the Patriotic Front where Senior

Party officials were present, one of whom was Mr. Francis Kapyanga.

- 3.4. According to **PW1**, he was left in the car and was guarded by people while others mistreated and assaulted him through beatings. That he was thereafter taken to Nakonde Police Station where he was taken into the then CIO's Office Mr. Witola and shortly thereafter cadres forced their way into the office. That the said cadres filled the office and started beating **PW1** at which point the CIO left his office and amongst those who beat **PW1** were Mr. Ernest Chipako, Mr. Miracle Dube and Mr. Francis Kayanga who was Member of Parliament for Mpika at the time.
- 3.5. It was **PW1**'s testimony that after some time, the CIO went back and the cadres told him that **PW1** had insulted the President, made banners containing information against the President and that **PW1** had organised people to boo the President as he would be passing through Nakonde. That the CIO was instructed to search **PW1**'s house to confiscate the banners claimed to have been printed by him. Further that the cadres who had collected the phone from **PW1** handed it to the CIO and showed him the message **PW1** had posted on the WhatsApp group.
- 3.6. **PW1**'s evidence was that he was interrogated in the CIO's office from around 10:00 hours to about 15:00 hours after which he was thrown in Police Cells. That in the Cells, the captain informed **PW1** that he had been given specific instructions to beat up **PW1** because he had insulted the President. Further that **PW1** was beaten and told by the

captain that the beating would only stop if **PW1** made a payment of K500.00 which he agreed to as he did not want to suffer any more.

- 3.7. According to the Plaintiff, he sustained injuries from the beatings and despite repeated requests, the Police refused to issue him with a Medical Report forcing him to resort to treating his injuries using different types of pain killers.
- 3.8. **PW1**'s evidence is that his family and friends tried to organize for him to get Police Bond but they were told that the Police had received instructions from some senior Government officials that Bond should not be given until the President left Nakonde. That **PW1** was only released on Police Bond on 7th October, 2019, around 11:00 hours after the President had left Nakonde.
- 3.9. It was **PW1**'s evidence that at the time he was in Police Cells, he had not been officially charged yet he was only arrested and charged about two (2) months later and during that time, he kept reporting and appearing at the Police Station for the extension of his Bond. That the CIO called **PW1** on 1st December, 2019, and informed him that the Director of Public Prosecutions had given instructions to prepare the matter for trial as a result of which **PW1** was officially arrested and took plea in Court on 3rd December, 2019, denying the charge.
- 3.10. **PW1** stated that the Matter was adjourned several times until it was finally determined on 4th June, 2023, and **PW1** was acquitted as shown in the Ruling by the Subordinate Court

appearing at Pages 1 to 5 of the Plaintiff's Bundle of Documents.

- 3.11. It was **PW1**'s evidence that as a result of his arrest and prosecution, his businesses were affected and he suffered loss. That during the period of his arrest and prosecution, his movements were curtailed due to Court appearances and fear of being attacked by PF cadres at the instruction of their National Youth Chairperson Mr. Stephen Kampyongo. Further that **PW1** was viewed as a criminal in the eyes of the general public and people were not willing to do business with him anymore.
- 3.12. According to **PW1**, during the time he was appearing in Court, he was in a state of constant fear as the people who had handed him to the police still threatened him and his family so this led him to move his family to Southern Province for their safety. That the said move was very expensive and he had to borrow money at a high interest rate to facilitate the movement which cost him one Million Six Hundred Thousand Kwacha only (K1,6000.000.00).
- 3.13. Further, **PW1**'s evidence was that his Advocate at the time was Mr. Bright Hantumbo from Muleza Mwiimbu and Company based in Lusaka and had to travel to and from Nakonde for Court Sessions and the total bill for prosecuting the case came to about Two Hundred and Eighty Thousand Kwacha (280,000.00).
- 3.14. In Cross Examination by Miss Mwanza, **PW1** confirmed that he was beaten prior to being taken to the Police Station and that he was able to recognize those who beat him. He

responded in the affirmative to the question whether those who beat him were agents of the Defendant.

- 3.15. Responding to the question why he had not included the people who beat him up in the suit, **PW1** stated that it was not necessary to include them. When referred to his Amended Witness Statement and asked whether he was aware of the people who had given instructions to the captain as he alleged, **PW1** responded affirmatively and stated that the instructions were given by PF cadres namely Ernest Chipako, Miracle Dube, Allan Musachi and Francis Kapyanga. He reiterated that it was not necessary to include these in the suit.
- 3.16. **PW1**, answering a question on what belongings were taken from him when he was detained, stated that his phone was taken away. A follow up reference on where he got the K500.00 which he said he agreed to pay to the Captain of the Cells, **PW1** stated that he got the money from his colleagues who had gone to see him.
- 3.17. When asked by Mrs. Hakalima where **PW1** got the pain killers he had mentioned in his Amended Witness Statement, he responded that he went to the clinic for treatment and where he was given some and the others which he bought after he was released. As to who had caused the injuries he referred to in his claim, **PW1** stated that it was the PF cadres.
- 3.18. It was **PW1**'s response that the cadres were agents of the Defendant because they acted on behalf of the Police who acted on the report by the cadres. He added that he had proof before Court that the cadres were agents of the Defendant

and that he understands the word “agent” as a person who acts on behalf of someone.

3.19. **PW1** maintained that he had a right to be granted Police Bond which was denied until 7th October, 2019, and that the response he got from the CIO was that he (the CIO) was under instruction not to grant the Plaintiff Police Bond. That he had sureties who met Bond conditions, that is to say, well established civil servants or businessmen living in Nakonde.

3.20. **PW1** responded that he was not aware that the Police could detain someone on reasonable suspicion that a crime is about to be committed. He conceded that he did not really understand what reasonable suspicion is. He also admitted that he had erred on the date he said he was arrested and wished to change what he had indicated in his Witness Statement.

3.21. It was **PW1**'s concession that it is standard procedure for someone who is on Police Bond to report to the Police at intervals and that the Police were in order to request him to appear before them.

3.22. On who was prolonging **PW1**'s suffering and prosecution, his response was that it was the Patriotic Front cadres working with the Police to prolong the Court process.

3.23. On whether he had proof that his business suffered, **PW1** made reference to the Bank Statement through his 3 Accounts (2 personal Accounts, Kwacha and Dollar Accounts in his name at Access Bank and the third Account in which he owns 14,000 shares in the company name of Muntu Wa

Batu General Dealers as shown in the PACRA Registration Certificated). That during the time of his prosecution, his business suffered gross loss. According to **PW1**, the Company was not really separate from him because he ran the Company as Director and so when he was being prosecuted, the Company suffered as a consequence.

3.24.Regarding living in fear of attacks by PF cadres, **PW1** stated that he had reported this to the Police but he could not remember the date when he did and no action was taken by the Police. He added that a second incidence is when he was on Radio Chette in Nakonde with the UPND Provincial Chairperson and the same PF cadres in the company of Ernest Chipako stormed the Radio Station with pepper spray and weapons. That he personally did not report the matter to the Police because he knew that nothing was going to happen. Further that the owner of the Station reported the matter following which the cadres were arrested, taken to Court and even imprisoned for two years. **PW1** agreed that the Police had done their job which led to the arrest of the PF cadres.

3.25.Regarding expenses of K1,6000,000.00 which **PW1** indicated he had incurred in relocating his family to Southern Province following constant threats, **PW1** responded that he had not provided any proof of the expense and that it was an error on his part. He also stated that he had not provided proof that he had spent K280,000.00 in legal fees and that it was also an error on his part not to provide proof. When referred to the caption in the Ruling of the Subordinate Court which

showed that **PW1** was representing himself as (in person), **PW1** stated that he had represented himself on the first day and that from there on, a letter was filed in Court by his Lawyer.

3.26. When it was put to **PW1** that the Ruling was delivered at the end and if indeed he had a Lawyer, the name would appear on the Ruling, **PW1** stated that he could not tell the Court to include the name of his Lawyer who was present even when the Ruling was being delivered.

3.27. Upon being referred to a Discharge Slip in the Plaintiff's Bundle of Documents at Page 179, **PW1** admitted that he was aware that a Discharge Slip was not a Medical Report. That he was released on Police Bond on 7th October, 2019, and waited for three days before going to the Hospital on 10th October, 2019 because he was still taking the medicines that he was buying whose proof of the amount spent he had not provided.

3.28. **PW1**'s estimation when asked on how much he was making as a businessman, placed the same at K100.00 per day. He confirmed that he was claiming K3,5000,000.00 as well as compensation for loss of business amounting to K2,850,000.00.

3.29. In Re-Examination and clarifying on the compensation of K2,850,000.00, **PW1** stated that every money he earns is put into business so that it can multiply so when he stopped earning, the money stopped multiplying.

- 3.30. **PW1** clarified the appearances On the Ruling of the Subordinate Court that his Lawyer was present in Court.
- 3.31. Regarding his failure to report to the Police to take action, **PW1** stated that he could not go back to the Police when he was attacked at the Radio Station because the first time when he was handed to the Police by PF cadres, he was beaten in the CIO's office and the Police offered no help. Further that the time he was attacked in Katoza village with his colleague, they could not get any help from the Police who instead arrested his colleague.
- 3.32. Clarifying the issue of taking and posting pictures, **PW1** stated that he did not post the statement but what he posted was the picture.
- 3.33. On why he had not included the people who had beaten him in his claim, **PW1** stated that it was because even during trial, the Arresting Officer clearly told Court that **PW1** was arrested under instruction from a Patriotic Front party senior official. Further that even the Magistrate in the Court below had asked as to why PF cadres had taken him to the police instead of the police summoning him.
- 3.34. On why **PW1** had stated that the PF cadres were agents of the State, **PW1** stated that he confirmed his statement because the Police acted on the instruction by the cadres.
- 3.35. **PW2** is 38 year old Edward Silomba a businessman of Mukoma Village, Nakonde District. He placed reliance for his evidence in chief on the Amended Witness Statement filed a 15th October, 2024.

3.36. According to **PW2**, he was with the Plaintiff on 3rd October, 2019, at Red Bombers located at Nakonde Bus Station where the Plaintiff was supposed to meet someone to collect documents. That as the Plaintiff was walking towards a booth to buy talk time, he was forced into an unregistered Toyota Vitz Motor Vehicle by a group of men.

3.37. **PW2**'s testimony was that he was the Constituency Chairperson for the United Party for National Development at the time and was informed by the people around that the people that had forced the Plaintiff into the Vitz car were Patriotic Front cadres. That **PW1** organized his friends and fellow party members to go to the Police Station and report the matter.

3.38. It was **PW2**'s evidence that they arrived at the Police Station between 11:00 and 12:00 hours and discovered that the Plaintiff was in the office of the CIO, at the time Mr. Witola. That they made attempts to go to the said office but were met with resistance from Police Officers and when they were eventually allowed in, they found the CIO in the company of Patriotic Front cadres and the Plaintiff sitting on a chair.

3.39. According to **PW2**, the Plaintiff appeared to have been badly beaten and when they inquired about it, the CIO and other Police Officers that had walked in denied that he had been beaten and to prove their point, they told the Plaintiff to walk across the room. That when the Plaintiff did so he was clearly limping and said nothing.

3.40. **PW2** averred that when they left the CIO's Office, they tried to apply for Police Bond but they were denied and the same

was only granted on 7th October, 2019. That the Plaintiff was only arrested on 1st December, 2019, as can be seen from the Charge Sheet appearing at Page 6 of the Plaintiff's Bundle of Documents.

3.41. It was **PW2**'s testimony that when the Plaintiff was released on Police Bond, he received many threats from members of the Patriotic Front and as a result, he had to relocate his family to Southern Province. That the Plaintiff fearing for his life would often spend nights at **PW2**'s house or at a motel and was often afraid to move alone and had to be either in **PW2**'s company or that of other people. Further that the Plaintiff's business suffered greatly during this time and **PW2** and other people had to step in to assist the Plaintiff and his family financially.

3.42. **PW2** ended his testimony by stating that the matter for which the Plaintiff was charged in the Subordinate Court was eventually heard on 7th June, 2021, and he was acquitted by the Court as evidenced at Pages 1 to 5 of the Plaintiff's Bundle of Documents.

3.43. In Cross Examination by Ms. Mwanza, **PW2** responded that he knows the persons who beat the Plaintiff and that he could identify them. When asked whether they were Police Officers, **PW2**'s response was in the negative.

3.44. On whether they met the requirements for Police Bond to be issued, **PW2** stated that 2 or 3 Civil Servants were required and that the sureties were taken to the Police the same day between 11 and 12 hours.

- 3.45. Regarding when the Plaintiff was charged and arrested, **PW2** replied that it was after five days of being arrested from what he remembered.
- 3.46. When asked whether the fear **PW2** referred to about the Plaintiff came from the Police or the PF cadres, his response was that it was both because the Police were supposed to protect the Plaintiff but they did not.
- 3.47. In Re-Examination and clarifying why **PW2** had included the Police, his position was that they had tried to talk to the Police but they were on the side of the PF cadres and were just observing the PF cadres and left the office.
- 3.48. The Defendant's sole Witness was 57 year old Peter Witola a resident of Flat No10 Hilcrest Ndola (**DW**), who informed Court that he retired from the Zambia Police Service in 2023, as a Criminal Investigations Officer. He placed reliance for his evidence in chief on his Witness Statement filed on 24th November, 2023.
- 3.49. According to **DW**, he was, in 2019, stationed at Nakonde Police Station in Muchinga Province as a Criminal Investigations Officer. That while he was executing his duties sometime in October, 2019, a group of members of the Public apprehended and handed over the Plaintiff at the Police Station as a result of a publication he had written and posted in one of the WhatsApp groups.
- 3.50. That the full text message was 'NAKONDE PEOPLE SEEING A TEMPORAL TARMAC AFTER TWO DECADES OF USING

GRAVEL ROAD, JUST BECAUSE BALYA INSOKA BALAISA MAILO”.

3.51. **DW2**'s testimony was that investigations were instituted and a docket was opened then transmitted to the Office of the Deputy Chief State Advocate-National Prosecution Authority (NPA) in Chinsali, Muchinga Province for a legal opinion and advice. That they received the legal opinion and there was a *prima facie* case against the accused person to justify the prosecution. Further that the Plaintiff was then charged and arrested for the offence of **Defamation of the President** contrary to **Section 69** of the **Penal Code Chapter 87** of the **Laws of Zambia**.

3.52. It was **DW2**'s evidence that after a thorough investigation and based on the legal opinion from NPA, it was established that there was reasonable and probable cause to arrest the Plaintiff and procedure was dully followed to conduct the arrest in accordance with the law and he relied on the Occurrence Book and the Arrest Prison Property Book. That the docket was transferred to NPA for the prosecution of the Plaintiff before the Courts of Law.

3.53. In Cross Examination by Ms. Mushipe, **DW** stated that he arrested the Plaintiff on 2nd October, 2019, from his office at the Police Station in Nakonde. He stated that it was not true that the Plaintiff was among the PF cadres who took him there as it was only the Plaintiff and **DW** who were in the office.

3.54. According to **DW**, the Plaintiff was arrested for the offence of **Defamation of the President**. He agreed that a person is only arrested on the basis of a complaint received and that

the complaint was lodged by a group of members of the public among them, Musache Kapilipili and Sinakafushi Dube who could have been members of the Patriotic Front but that was not a consideration to the Police. In his estimation, **DW** stated that the group comprised about 4 to 5 people and not 20 as put to him.

3.55.**DW** denied the assertion that at the time of the Plaintiff's arrest, he was thrown into **DW's** office by a group of PF cadres. He denied that the Plaintiff was beaten before the arrest or that the Plaintiff reported the brutal beating before his arrest.

3.56.**DW** agreed that he conducted a due diligence of the allegations levelled against the Plaintiff and that an arrest is only made after a thorough investigation. He agreed that the Plaintiff was placed in the cells on the day he was taken to the Police Station and added that there is a difference between an apprehension and an arrest. That he had evidence to substantiate the arrest.

3.57.It was **DW's** response when asked, that he had evidence before the Court of the defamatory statement by the Plaintiff. When pressed further and asked to show Court the evidence, **DW** stated that part of the evidence was the letter from the State Advocate. **DW** conceded that he did not have the Statement before Court. He also conceded that the purported Statement arose from a WhatsApp group according to his Witness statement. He however admitted that he did not have a copy of the Statement from the WhatsApp group and

that he was not sure who the Administrator of the WhatsApp group was.

3.58. **DW2** added that the Administrator of the group was not a factor because what was established was that the Plaintiff was using his phone number and he was the one who posted the defamatory statement. **DW** stated that he had a Statement from ZICTA in the Court below but that he did not have the same in this Court.

3.59. When referred to Page 4 of the Plaintiff's Bundle of Documents filed on 30th August, 2023, **DW** agreed that the Court acquitted the Plaintiff through that decision which he could not question. **DW2** stated that in the Court below where he was a witness, he could not remember saying that the statement was not defamatory.

3.60. **DW** stated that according to what is indicated at Page 3, Paragraph 2 of the Plaintiff's Bundle of Documents, the basis of the Plaintiff's arrest was the instruction by the Deputy Chief State Advocate. He however did not agree that the arrest was actually malicious. **DW** conceded that he did not have a witness who could say that the Plaintiff did make the alleged defamatory statement. He also agreed that he did not have a statement where the posting referred to the President.

3.61. When asked to show Court where the statement in his Witness Statement referred to the President, **DW's** response was that the President there was referred to by the words, '*abalya insoka baleisa mailo*'. That this was because, the President ate a roasted piece of snake which was given to him

by the commando in Mbala a day before his scheduled visit to Nakonde.

3.62. **DW2** stated that the Plaintiff was not in Mbala. That he was not aware of the several videos on internet showing commandos eating snakes. Further that **DW** did not see the President eating a snake at the time but only saw it on News as it was in the public domain but could not remember the actual date. **DW** stated he had not brought the ZNBC News coverage before Court and that he had not caught the Plaintiff red handed.

3.63. In further Cross Examination by Ms. Sikombwa, **DW** stated that he did not have the Plaintiff's number before Court. Clarifying on which date the Plaintiff was arrested, **DW** stated that 2nd October, 2019 was an unofficial arrest or detention and that the official arrest was made on 4th October, 2019, after thorough investigation. That the Plaintiff's phone was confiscated and it showed the publication posted by the Plaintiff on the WhatsApp group and the phone was part of evidence in the Criminal Proceedings.

4.0. SUBMISSIONS

4.1. The Plaintiff filed Submissions on 26th June, 2025, while the Defendant's were filed on 17th July, 2025. Submissions in Reply were filed by the Plaintiff on 25th July, 2025.

4.2. The Submissions for which I am grateful will not be reproduced but will be considered and referred to where necessary.

5.0. CONSIDERATION AND DECISION OF THE COURT.

5.1. I have carefully considered the Pleadings, Witness testimonies, Bundles of Documents and Submissions filed by Counsel on behalf of their respect clients.

5.2. It is not in dispute that the Plaintiff was detained by the Police, prosecuted for the offence of **Defamation of the President** and later acquitted by the Subordinate Court.

5.3. What is in dispute and falls for my determination is whether the Plaintiff's detention by the Police amounted to false imprisonment and whether the prosecution by the State was malicious. The Plaintiff's other claims stem from these two issues and will be dealt with in the course of the Judgment.

5.4. The beginning point is the trite position of the law that he who alleges must prove. This principle established that a party that makes an assertion before Court has the burden of providing evidence in support of their claim. I find comfort in the Supreme Court case of **Zambia Railways Limited v Pauline S. Mundia and Brian Sialumba**¹ where it was stated that:

“The old adage is true that he who asserts a claim in a civil trial must prove on a balance of probability that the other party is liable.”

5.5. In another case of **Masauso Zulu v Avondale Housing Projects**² cited with approval by the Supreme Court in the case of **Anderson Kambela Mazoka and Others v Levy Patrick Mwanawasa and Others**³, it was stated that:

“It is accepted that where a Plaintiff alleges that he has been wrongfully or unfairly dismissed, as indeed in any other case when he makes an allegation, it is generally for him to prove these allegations. A Plaintiff who has failed to prove his case can not be entitled to Judgment, whatever may be said of the opponent’s case”.

5.6. I begin with the claim for false imprisonment. The Learned authors **Clerk and Lindsell on Tort** at Paragraph 15-23 stated that this Tort is established on proof of:

***“1. The fact of false imprisonment and;
2. The absence of lawful authority to justify that imprisonment.
And for these purposes, imprisonment is complete deprivation for any time, however short, without lawful cause”.***

5.7. In the case of **Richman Chulu v Monarch (Z) Ltd⁴**, usefully cited by the Defendant, it was held that:

“False imprisonment only arises where there is evidence that the arrest which led to the detention was unlawful, since there is no reasonable and probable cause”.

5.8. What I make of the above is that the question of false imprisonment turns on whether there was reasonable and probable cause for the arrest. According to **Black’s Law Dictionary** probable cause in criminal law is defined as:

“a reasonable ground to suspect that a person has committed or is committing a crime or that a place contains specific items connected with a crime”.

5.9. In the case of **Ginski v McIver**⁵, the House of Lords held that in order that the Plaintiff succeeded on the issue of reasonable and probable cause, he must prove one or other of the following:

“1. First that the defendant did not believe that the Plaintiff was probably guilty of the offence. In this regard, evidence should be given by the Plaintiff of some fact or facts which either inherently or coupled with other matters proved in evidence, would permit the inference that the defendant did not believe the plaintiff’s guilt”.

2. Second that a person of ordinary prudence and caution would include, in light of the facts in which he honestly believed, that the plaintiff was probably guilty”.

5.10. In the present case, the Plaintiff led evidence to the effect that he was approached by a group of Patriotic Front cadres who beat and bundled him in a Vitz Motor Vehicle and later transported him to Nakonde Police Station for the post he had allegedly made on a WhatsApp group which was interpreted to be an insult to President Edgar Chagwa Lungu. The words alleged were that the Plaintiff had stated that *“Nakonde people are seeing the temporal tarmac road after two decades of using gravel because ibalya insoka bailisa mailo”.*

- 5.11. According to the Plaintiff and his witness, **PW2**, the cadres who beat him up were agents of the Defendant because they acted on behalf of the Police. In my evaluation of the evidence, I have found nothing that suggests that the cadres were acting as agents of the Defendant or that the Defendant authorized the alleged beating by the cadres as contended by the Plaintiff. There is also no evidence that the cadres were sent by government officials as contended by the Plaintiff. I have further found no evidence of the instructions allegedly given to the Police by Mr. Stephen Kampyongo as Minister of Home Affairs at the time.
- 5.12. What I have found as facts is that the Plaintiff was arrested on 3rd October, 2019, and released on 7th October, 2019, on Police Bond. The Plaintiff was prosecuted and acquitted on 4th June, 2021, at Case to Answer stage.
- 5.13. In the testimony by the Defendant's sole witness, it was admitted that the Plaintiff's phone was confiscated which had the message posted by the Plaintiff on a WhatsApp group.
- 5.14. Turning to the alleged defamatory words, **DW** conceded that he did not have a statement where the message referred to the President. That during trial in the Court below, he could not remember saying that the statement was not defamatory. He conceded that according to the Ruling of the Court below, the basis of the Plaintiff's arrest was the instruction by the Deputy Chief State Advocate.
- 5.15. Given the above state of evidence, can it be stated that the Defendant had reasonable and probable cause to arrest the

Plaintiff within the meaning of the definition by the **Black's Law Dictionary** or other authority on the subject matter?

5.16. To do justice to the question above, it is important to restate what the Plaintiff was detained for. It is not in dispute that what led to the detention of the Plaintiff were the following words:

“Nakonde people seeing temporal tarmac after two decades of using gravel road because abalya insoka balaisa mailo”.

5.17. In acquitting the Plaintiff, the lower Court cited the case of **Mutemba v Zambia Newspaper Ltd and Another**⁶ where the High Court held that where in their natural and ordinary meaning words are not defamatory, the Plaintiff has a burden of showing that there are extrinsic facts known to a person to whom the words are published, which would cause the words to convey the defamatory imputation or which he relies to a reasonable person with that knowledge. The Learned Magistrate went on to state that in the case before it, the witness called by the State had not shown that there were extrinsic facts known to them which would cause the words to bring the President into hatred, ridicule or contempt.

5.18. In the case of **Attorney General and Others v Masauso Phiri**⁷ the Supreme Court of Zambia quoted **Clerk and Lindsell on Tort** at Paragraph 15-65 as follows:

“Where the issue is whether the arrester had reasonable grounds for suspicion, it is for a

Judge to rule on whether there was such reasonable grounds, as in an action for malicious prosecution but the burden of proof is different. Whilst in an action for malicious prosecution the onus is on the Plaintiff to prove the absence of reasonable, in an action for false imprisonment, the burden lies on the defendant to justify the arrest. He must prove affirmatively that he acted on reasonable grounds". (emphasis mine)

- 5.19. In the case of **Atlas Copco Zambia Limited v Malambo**⁸ the Court of Appeal of Zambia at PageJ.10 stated that:

“Our understanding is that if a person is detained by the police and there is reasonable and probable cause for believing that the person has committed a crime, there can be no false imprisonment”.

The Court went further to Page J11 to state that:

“The only thing the defendant has to prove is that the imprisonment was justified”.

- 5.20. Based on the facts of this case and particularly the evidence of the **DW**, I am far from being satisfied that the Defendant acting through **DW** had reasonable and probable cause for believing that the Plaintiff had committed a crime or that the detention of the Plaintiff was justified within the meaning of the case of **Atlas Copco Zambia Limited**⁸ and

the learned authors **Clerk and Lindsell on Tort** referred to above.

5.21. Further, the Defendant through **DW** can not hide behind the purported legal opinion from an unnamed Senior State Advocate from the National Prosecution Authority to justify the indefensible conduct. To believe and entertain the purported legal advice would be elevating such to underserving levels which I am not prepared to do. For avoidance of doubt, I find that the Plaintiff was falsely imprisoned by the Defendant's agent who under the circumstances had no lawful justification whatsoever.

5.22. I take further comfort in my decision from the case of **Richman Chulu v Monarch Zambia (Z) Limited**⁴ referred to above for the position that false imprisonment only arises where there is evidence that the arrest which led to the detention was unlawful, since there is no reasonable and probable cause.

5.23. I now move to address the issue whether there was malicious prosecution. The essential features of malicious prosecution were set out by Muwo J, in the case of **Mubita Mbanga v The Attorney General**⁹ as follows:

i) prosecution

ii) favourable termination of the prosecution,

iii) lack of reasonable and probable cause, and

iv) malice.

5.24. As regards proof of malicious prosecution, I find the words of Lord Denning in the case of **Stanley v Annets and Another**¹⁰ instructive as follows:

“In an action for malicious prosecution the burden is on the Plaintiff to prove malice and absence of reasonable cause. If the Defendant denies, it is not the practice to require the defendant to give particulars of his denial. It is only if he puts forward a positive allegation that he should be required to give particulars of it”.

5.25. I also find further guidance from the learned authors of **Clerk and Lindsell on Tort** as already captured under Paragraph 5.16 above.

5.26. Applying the guidance above I have found evidence from both Parties that the Plaintiff was prosecuted, the prosecution terminated in favour of the Plaintiff and that there was absence of reasonable and probable cause for the arrest. This means that three (3) of the elements have been satisfied. I will now determine the remaining element, that is to say, whether the Defendant instituted the proceedings maliciously.

5.27. I have found earlier that there was no reasonable and probable cause for the Defendant to have falsely imprisoned the Plaintiff. Instituting criminal proceedings, would under such circumstances be deemed to have been actuated by malice. I find comfort in the case of **Anti-**

Corruption Commission v Charles Sambundu¹¹ where the Supreme Court stated that:

“That although the appellant in his defence had averred that there was reasonable and probable cause on which it prosecuted the respondent, it did not go further to elaborate the reasonable and probable cause. He noted that the appellant’s defence did not dispel the fact that the appellant acted with malice. He took the view that malice does not necessarily have to be express, it can be implied from the actions or conduct of a party”.

- 5.28. Though not binding on me, I am persuaded by the words of Muwo J, in **Mbanga v The Attorney General**⁹ cited above that the proper motive for any prosecution is of course to ensure and secure the ends of justice. If therefore the securing of the ends of justice in a prosecution was not the true and predominate motive, then malice is proved.
- 5.29. Having found that the Plaintiff has successfully made out his claim for false imprisonment and malicious prosecution and therefore liability on the part of the Defendant established, compensation is ordered in favour of the Plaintiff on these two heads.
- 5.30. I now move on to address the ancillary claims for compensation and damages. Regarding compensation for loss of business, the Plaintiff claims an amount of ZM2,850,000.00. In my view this claim constitutes special

damages which must be specifically pleaded and substantiated with evidence.

5.31. At trial, the Plaintiff produced a Supplementary Bundle of Documents containing Bank Records of a company which is not a party to the Proceedings but where he is a director. He also stated that he was making about K100 per day and that is how he arrived at the amount in Paragraph 5.30 above.

5.32. In the case of **J.Z Car Hire Limited v Chala Scirrocco Enterprises Limited**¹², the Supreme Court stated that:

“We have considered the learned Deputy Registrar’s Judgment and the submissions before us and we have been unable to fault the learned Deputy Registrar in his holding that there was no evidence of the loss of business to be quantified”.

5.33. In another case of **Mhango v Ngulube and Another**¹³, the Supreme Court held that:

“It is of course, for any party claiming a special loss to prove that loss and to do so with evidence which makes it possible for the Court to determine the value of that loss with a fair amount of certainty. As a general rule, therefore, any short comings in the proof of a special loss should react against the claimant”.

5.34. The import of the above holdings is that special damages must be both specifically pleaded and strictly proved. It is not sufficient for a party to merely allege a special loss. Credible evidence ought to be presented to enable the Court assess the loss. Any deficiency in proof operates against the claimant.

5.35. My findings regarding the claim for loss of business applies with equal force to the Plaintiff's claims for compensation for harassment and lack of protection from the Police that purportedly forced the Plaintiff to relocate his family to Southern Province pegged at ZM1,600,000.00. The same is true for the claim for compensation for legal fees in the sum of ZM280,000.00. There is absolutely no substratum for the Plaintiff to be awarded compensation under these two heads. The case of **J.Z Car Hire Limited v Chala Scirrocco Enterprise**¹² and **Mhango v Ngulube and Another**¹³ are instructive on the need prove such losses.

5.36. I now proceed to deal with the non-pecuniary claim for damages for mental anguish, turmoil and distress suffered by the Plaintiff as a result of Unlawful Detention and Malicious Prosecution. In his Supplementary Bundle of Documents at Page 179, the Plaintiff has produced a discharge slip which shows that he was admitted on 10th October and discharged on 15th October, 2019, and was treated for bruises on the hands, body pains and had a headache. From the evidence before me, the Plaintiff was released on Police Bond on 7th October, 2019.

5.37. I have already found above that there was no proof or evidence that the Plaintiff was assaulted by agents of the Defendant. Infact when he was asked this question, he attributed the beatings and assault to the persons who he had by his own admission not included as part of this case. These were political party cadres as testified by the Plaintiff and his witness, **PW2**, and not agents of the State as I have found.

5.38. In the case of **Lewis Mosho v Matildah Phiri**¹⁵, the High Court acknowledged that emotional distress can be compensable especially where the conduct was malicious or deceptive. The import is that emotional harm must be pleaded with supporting facts. That liability for mental anguish, turmoil and distress arises in extreme circumstances where the distress is so severe that no man could be expected to endure it. **The case of Attorney General and Others v Felix Chris Kaleya**¹⁴ cited by the Plaintiff for the position that there is no law which authorizes the Police to beat up persons detained for investigations would, in the circumstances of this case, be wholly inapplicable and therefore unhelpful to the Plaintiff. This is so because there is absolutely no evidence that the Plaintiff was assaulted or subjected to inhuman treatment by the Police

5.39. The conclusion I reach regarding this claim is that the Plaintiff has not proved, to the requisite standard, that he suffered actual loss and damages, emotional distress and

anguish as a result of unlawful detention and malicious prosecution by the Defendant.

5.40. Regarding General damages and Aggravated damages for physical hurt and brutality occasioned by the Defendant's agents, I have already found that the Defendant did not inflict these unpleasantries on the Plaintiff. In the Plaintiff's own evidence, these atrocities were inflicted on him by known political cadres who in his view were agents of the Defendant and so he did not think it was necessary to have them joined to the suit.

5.41. It is trite that in deserving cases, a Court while awarding compensatory damages can award aggravated damages where the Court feels that the Defendant's conduct merits it and where this is due, the essence is that the aggravated damages are compensatory on the highest scale. This is what the Court held in the case of **Cobbet Tribe v Zambian Publishing Company Ltd**¹⁶.

5.43. In my analysis, I am not satisfied that this is a fit and proper case in which I must award aggravated and exemplary damages as envisioned in the **Cobbet v Zambia Publishing Company Ltd**¹⁶. These claims are therefore not awarded.

5.45. Finally on the claim for "*Any other relief the Court may deem fit*", I have found guidance in the Supreme Court case of **Justice Mbita Silumbwe v Barclays Bank**¹⁷ where the Supreme Court quoted the holding of **Attorney General v D. G. Mpundu**¹⁸ and stated that:

“In line with that decision, we are of the view that a specific figure in the form of special damages can not be awarded under a general pleading ‘any other relief the Court may deem fit’.”

6.0. CONCLUSION

- 6.1. Having found that the Plaintiff was falsely imprisoned and maliciously prosecuted, I Order that the Defendant compensates damages to the Plaintiff under these two heads an aggregate sum of K400,000.00. The amount shall attract interest at 6% per annum from the date of Writ till full payment.
- 6.2. The Plaintiff’s claim for damages for loss of business fails for lack of evidence.
- 6.3. The Plaintiff’s claim for harassment and lack of protection from the Police that forced the Plaintiff to relocate his family to Southern Province fails for lack of evidence.
- 6.4. Compensation for legal fees fails for lack of evidence.
- 6.5. Damages for mental anguish, turmoil and distress suffered by the Plaintiff as a result unlawful detention and malicious prosecution is declined for failure to meet the requisite threshold for non-pecuniary awards.
- 6.6. General damages for physical hurt occasioned by the Defendant’s agents are declined on grounds that the persons who may have afflicted the same are known political party cadres who are not before Court and there is no evidence that they were acting on behalf of the Defendant in their alleged enterprise.

- 6.7. The claim for aggravated damages for torture and brutality purportedly committed by the Defendant's agents is declined for the reasons stated in Paragraph 6.6 above.
- 6.8. Costs are for the Plaintiff to be taxed in default of agreement.

DATED AT LUSAKA THIS 1ST DAY OF DECEMBER, 2025.



**I. M. MABBOLOBOLO
HIGH COURT JUDGE.**