

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

2024/HP/0932

BETWEEN:

LEVY JOSEPH NGOMA

TREVOR MWIINDE SIALUNGA



1ST PLAINTIFF

2ND PLAINTIFF

AND

EMMANUEL JAY JAY BANDA

THOMAS ALLAN ZGAMBO

SABOI IMBOELA

SEAN TEMBO

1ST DEFENDANT

2ND DEFENDANT

3RD DEFENDANT

4TH DEFENDANT

BEFORE THE HONOURABLE MRS. JUSTICE M.C KOMBE

For the Plaintiffs:

*Mr. C. Sikazwe - Messrs. Chanza
Sikazwe Advocates.*

*Mr. Friday Besa - Messrs. Friday
Besa & Co.*

For 1st Defendant:

No appearance

For the 2nd Defendant:

No appearance

For the 3rd Defendant:

*Mr. A. Rumsay and Ms. C. Phiri -
Messrs. Central Chambers.*

For the 4th Defendant:

In person.

R U L I N G

Cases referred to:

1. **Imbwae v. Imbwae (SCJ No. 12 of 2003)**
2. **Robert Simeza and others v. Elizabeth Mzyeche (Appeal No. 87 of 2011).**
3. **William Coulson v. James Coulson (1887) 3 T. L. R 846**
4. **American Cyanamid v. Ethicon (1975) All E.R 504**
5. **Bonnard v. Perryman (1891) 2 Ch. 269.**
6. **Fraser v. Evans (1969) 1 Q.B 349.**
7. **Bevin Ndovi v. The Post Newspapers Limited and Times Printpak Zambia Limited (SCZ 8 of 2011).**
8. **Capital and Countries Bank Limited v. George Henty and Sons (1882) 7 A.C 741.**
9. **John Kunda v. Konkola Copper Mines (Appeal No. 48 of 2017)**
10. **Khalid Muhamed v. Attorney General (1982) Z.R. 49.**
11. **Masauso Zulu v. Avondale Housing Project (1982) Z.R 172.**
12. **Lewis v. Daily Telegraph Limited (1964) A.C 234.**
13. **Michael Chilufya Sata v. Chanda Chimba III and others (2011) Z.R. 519.**
14. **Crest Homes Limited v. Ascott (1980) F.S.R. 396.**
15. **Edward Jack Shamwana v. The People (1985) Z.R. 41.**
16. **Michael Chilufya Sata v. Chanda Chimba (T/A Phibajo Productions (2011/HP/441).**
17. **Smithline Beecham P.K. v. Opotex Europe Limited (2003) CWCA 137.**
18. **Quartz Hill Consolidated Gold Mining Company v. Beall (1882-83) L.R. 11 Q.B.D 674.**
19. **Given Lubinda v. Chilufya Tayali (2016/HP/1009) (unreported)**
20. **Silkvin v. Beaverbrook Newspaper Ltd (1958) 2 ALL. ER. 516.**
21. **Tse Wai Chun Paul v. Albert Cheng (2000) HKCFA 86.**
22. **Michael Chilufya Sata v. The Post Newspaper Limited and Another (1993/HP/1395,1804 and 1893) (unreported).**
23. **Spill v. Maule (1869) L. R 4 Ex 232 at 235.**
24. **Shell and BP (Z) Limited v. Conidaris and others (1975) Z.R. 174.**
25. **C and S Investments Limited and 2 others v. Attorney General (Appeal No 32 of 2003)**
26. **Milingo Lungu v. Attorney General and 2 others (2022/CCZ/006) (unreported).**

Legislation and material referred to:

- 1. The High Court Rules, Chapter 27 of the Laws of Zambia.**
- 2. The Rules of the Supreme Court, 1999 Edition (White Book).**
- 3. Patrick Milmo and W.V.H. Rogers, Gatley on Libel and Slander, Eleventh Edition (Sweet and Maxwell & Thomson Reuters) London, 2008.**
- 4. Halsbury's Laws of England, Fourth (4th) Edition, Volumes 24 and 28 (Butter worth's) London 1979.**
- 5. Michael A. Jones and Anthony M. Dugdale, Clerk and Lindsell on Torts, Twentieth (20th) Edition (Sweet and Maxwell & Thomson Reuters) London 2010.**

1. INTRODUCTION

- 1.1 On 28th June, 2024, the Plaintiffs herein filed a writ of summons and statement of claim against the Defendants seeking *inter alia* compensatory damages for defamation of character.
- 1.2 On 29th July, 2024, the Plaintiffs filed an application for an order of injunction pursuant to Order 27 of High Court Rules Chapter 27 of the Laws of Zambia as read together with Order 29(1) of the Rules of the Supreme Court of England 1999 Edition (white book).
- 1.3 The injunctive order sought is to restrain the Defendants by themselves, their servants, agents and/or their counsel or otherwise from further publishing or causing to be printed or published, broadcast, streamed or distributed defamatory words referred to them purporting that the Plaintiffs abducted the 1st Defendant or any similar words

defamatory of them pending the hearing of this matter or until further order of this Court.

1.4 This ruling is in relation to this application.

2. PLAINTIFFS AFFIDAVIT EVIDENCE

2.1 The affidavit in support of the application was deposed to by one Levy Joseph Ngoma, the 1st Plaintiff herein.

2.2 He deposed that between 26th May, 2024 and 3rd June, 2024, the 1st Defendant engaged, instructed and authorised his Counsel Mr. Sakwiba, SC (who is also the leader of an opposition political party called United Liberal Party) and on various other occasions after that to falsely and maliciously publish to the whole wide world through the Internet against the Plaintiffs and others, words libellous and defamatory of them through various Television, Newspapers and online media platforms.

2.3 That on several other dates after that, the 2nd, 3rd and 4th Defendant falsely and maliciously published of and concerning the Plaintiffs to the whole wide world through the internet libellous and defamatory words.

2.4 It was further deposed that on or about the 2nd June, 2024, the 1st Defendant through his counsel Mr. Sakwiba Sikota, SC falsely and maliciously caused to

be published the following words of and concerning them in the “News Diggers” on their Facebook page: **Emmanuel Jay Jay Banda’s Lawyer, Sakwiba Sikota says his client revealed to the police that State House officials Clayson Hamasaka and Levy Ngoma and a UPND youth leader were allegedly involved in his abduction.** A copy of the article which was posted on the News Diggers was produced and marked ‘LJN1’.

- 2.5 The Plaintiffs further asserted that the 1st Defendant through his counsel falsely and maliciously in a press conference held in the presence of the 1st Defendant’s family spoke and caused to be published the words of and concerning them as aired by Diamond TV Zambia on their Facebook page on the Breakfast show programme of 3rd June, 2024 the following words:

Sakwiba Sikota SC: ‘Yes that’s true he did mention his abductors.’

Journalist: ‘Who are they?’

Sakwiba Sikota SC: ‘Two of them that he mentioned are high government officials actually stationed at Community House. Since everything in Zambia is done at Community House. Then also Mwiinde, the Youth Chair for UPND in Southern Province.’

Journalist: ‘Trevor Mwiinde’

Sakwiba Sikota SC: ‘Yes’

- 2.6 The deponent further explained that on or about 2nd June, 2024, the 2nd Defendant, through the

“ZAMBIAN WHISTLE BLOWER” Facebook page which the 2nd Defendant owned, managed and administrated, falsely and maliciously caused to be published the following words of and concerning the Plaintiffs:

“MP JAY JAY BANDA NAMES CLAYSON HAMASAKA, LEVY NGOMA AND TREVOR MWIINDE AS HIS ABDUCTORS...

Petauke Independent Member of Parliament (MP) Emmanuel Jay Jay Banda has named President Hakainde Hichilema’s Political Advisor Levy Ngoma Chief Communications Specialist at State House Clayson Hamasaka and United Party for National Development (UPND) Deputy National Youth Chairperson Trevor Mwiinde as the people who abducted him from his vehicle on his way home.”

2.7 A copy of the article was produced and marked **“LJN2”**. That underneath the said article on the **Zambian Whistle-blower** Facebook page the 2nd Defendant posted the photographs of the Plaintiffs and Mr Clayson Hamasaka.

2.8 In relation to the 3rd Defendant, it was deposed that on or about the 2nd June, 2024 the 3rd Defendant, through the **“NATIONAL DEMOCRATIC CONGRESS PARTY”** (NDC) Facebook page which the 3rd Defendant owned, managed and administrated, falsely and maliciously caused to be published the following words of and concerning them:

“MP JAY JAY BANDA NAMES CLAYSON HAMASAKA, LEVY NGOMA AND TREVOR MWIINDE AS HIS ABDUCTORS...”

Petauke Independent Member of Parliament (MP) Emmanuel Jay Jay Banda has named President Hakainde Hichilema’s Political Adviser Levy Ngoma, Chief Communication Specialist at State House Clayson Hamasaka and United for National Development (UPND) Deputy National Youth Chairperson Trevor Mwiinde as the people who abducted him from his vehicle on his way home.”

2.9 It was further deposed that the 3rd Defendant had on various occasions after the one referred to above repeated the said libellous and defamatory words concerning and against them particularly during a Press Conference held by Citizens First (CF) at their party secretariat in Lusaka.

2.10 That these words were streamed live on Facebook on 6th June, 2024 on the NDC Facebook page and Harry Kalaba’s Facebook profile where the 3rd Defendant vehemently insisted on repeating the said libellous and defamatory words against the Plaintiffs after she was notified of the Plaintiffs intentions to institute legal action against her in respect of the said defamatory statements through a demand letter.

2.11 Regarding the 4th Defendant, it was deposed that on or about the 3rd June, 2024 the 4th Defendant,

through the "**SEAN E. TEMBO**" Facebook page which the 4th Defendant owned, managed and administrated, falsely and maliciously caused to be published the following words of and concerning the Plaintiffs:

"PeP STATEMENT REGARDING FOR IMMEDIATE ARREST OF HON. JAY JAY BANDA'S ABDUCTORS..."

As Patriots for Economic Progress (PeP), we are alarmed to learn that Honourable Emmanuel Jay Jay Banda named State House officials Mr. Clayson Hamasaka and Mr. Levy Ngoma, together with the ruling UPND Deputy Youth Chairperson; Mr. Trevor Mwiinde as his abductors as revealed by his lawyer Mr. Sakwiba Sikota- State Counsel.

We are further alarmed that instead of arresting the named three abductors, the Zambia Police has instead decided to arrest the abducted Hon. Jay Jay Banda for an alleged offence relating to an incident that took place more than 5 years ago and which the Courts already dealt with and disposed of. From our standpoint, the police are trying to create a diversion from the main issue which is abduction of Hon. Jay Jay Banda which in effect adds credence to Mr. Banda's allegations that Clayson Hamasaka, Levy Ngoma and Trevor Mwiinde are the people who were involved in his abduction.

.....

In the premises above, we demand as we hereby do for the immediate arrest of the persons that Hon. Jay Jay Banda named as his abductors, being the State House Communications Chief; Mr. Clayson Hamasaka, President Hakainde Hichilema's Political Advisor; Mr. Levy Ngoma and UPND Deputy Youth Chairman; Mr. Trevor Mwiinde."

2.12 The deponent also explained that on 4th June, 2024, the 4th Defendant authored a letter in response to their letter of demand wherein he stated that he merely repeated the statements made by Counsel for the 1st Defendant Mr Sakwiba Sikota SC.

2.13 That on or about 4th June, 2024, the 4th Defendant in the presence of Mr. Sakwiba Sikota SC repeated the said libellous and defamatory words during a Press Conference in a video streamed live on multiple Facebook Channels and posted on the 4th Defendants page called "**SEAN E. TEMBO**".

2.14 That the 1st Defendant's counsel Mr Sakwiba Sikota SC did not refute the said libellous and defamatory statements attributed to him by the 4th Defendant for and on behalf of his client the 1st Defendant.

2.15 In addition, the 4th Defendant posted on "**SEAN E. TEMBO**" Facebook page the following caption on the video post "***Levy Ngoma can go and report to 200 police stations if he wants...I still stand by my words.***"

2.16 The deponent also deposed that the Defendants herein had on various other occasions, too numerous to itemise, after the incidences referred to repeated and threatened to repeat the said libellous and defamatory words on their respective Facebook accounts, press and media briefings, live streams on

social media falsely and maliciously defaming the Plaintiffs.

2.17 That in their natural and ordinary meaning, the libellous and defamatory words meant and were intended to mean that the Plaintiffs were at all material times incompetent and unfit for public and political office, dangerous criminals, persons of questionable character, abusing their public status and positions which they held to malign, silence and abduct leaders and members from the opposition critical to the government and the ruling party when in fact not.

2.18 By reason of the publication of the said libellous and defamatory words by the Defendants, the Plaintiffs had been seriously injured in their reputation and had been brought into public scandal, odium, contempt and had suffered grave hatred, public ridicule, distress and embarrassment.

2.19 That in the premises, damages would not be an adequate remedy as the public, private and political reputation of the Plaintiffs had been irreparably injured and tainted. Therefore, unless restrained by this Court, the Defendants would continue the unjustified, false and malicious publication of libellous and defamatory statements against them.

2.20 After considering the documents filed in support of the application, I declined to consider the application *ex parte* but directed that it would be heard *inter partes*.

3. THE 1ST AND 2ND DEFENDANTS

3.1 The 1st and 2nd Defendant Emmanuel Jay Jay Banda and Thomas Allan Zygambo did not file any affidavit in opposition to the application.

4. THE 3RD DEFENDANT'S AFFIDAVIT IN OPPOSITION

4.1 In opposing the application, the 3rd Defendant denied that she caused to be published the words of concern as she neither owned, managed or administered the Facebook page known as **'NATIONAL DEMOCRATICE CONGRESS PARTY'** as the page was managed and administered by the NDC Media Director.

4.2 However, the 3rd Defendant deposed that the words were true in substance and in fact as Emmanuel Jay Jay Banda named the two Plaintiffs as being involved in his abduction. She produced a copy of the sworn affidavit under cause no. 2024/HP/0829 in which the 1st Defendant confirmed the Plaintiffs involvement in his abduction. This was marked as **"SI1"**.

4.3 She also denied that she had ever repeated the words attributed to her whether on Facebook account, in a press statement or media briefing or live stream on social media. The 3rd Defendant also added that she did not commit any wrongful act as the publication complained of was true and she produced a copy of an article in the Daily Nation dated 12th June, 2024 which was marked as “SI2”.

5. THE 4TH DEFENDANT’S AFFIDAVIT IN OPPOSITION

5.1 The 4th Defendant also opposed the application and he filed into Court the affidavit in opposition to that effect.

5.2 In his affidavit, he deposed that he was the Party President of a duly registered political party called Patriots for Economic Progress (PeP) whose duties included provision of checks and balances to the Government of the day, including ensuring that the Zambia Police Service enforced the law in a fair and equitable manner.

5.3 In relation to the contents of the Plaintiffs affidavit in support, he explained that the 1st Plaintiff had merely repeated the same unfounded allegations as contained in his statement of claim filed before Court which he had disputed in his Defence and which

required determination by this Court in the main matter.

5.4 The 4th Defendant however gave a sequence of events as follows:

5.5 That on or about 25th May, 2024, Petauke Independent Member of Parliament Emmanuel Jay Banda mysteriously disappeared and his vehicle was found along twin Palm Road in Ibex Hill area of Lusaka City.

5.6 In the early hours of 27th May, 2024, the 1st Defendant was discovered by good Samaritans in the outskirts of Kafue Town dumped by unknown people on the side of the road and was subsequently transferred to Lusaka and was admitted at Maina Soko Military Hospital.

5.7 On or about 1st June, 2024, the 1st Defendant's counsel Mr. Sakwiba Sikota SC addressed the media and stated that he had gone to visit his client the 1st Defendant at Maina Soko Military Hospital. That the 1st Defendant had stated that he had been abducted and that he named Mr. Levy Ngoma who was the 1st Plaintiff and Mr. Clayson Hamasaka and Trevor Mwiinde the 2nd Plaintiff.

5.8 That on 2nd June, 2024, he issued a media statement in which he called on the Zambia Police Service to immediately arrest the individuals who had been

named by the victim the 1st Defendant as his abductors.

5.9 On 5th June, 2024, his call for the police to arrest the alleged abductors was formalized in writing through a letter addressed to the Inspector General of Police, a copy of which was produced and marked **“SET1”**.

5.10 That the Inspector General of Police had since written to him informing him that vigorous investigations were currently underway against the 1st and 2nd Plaintiff regarding the alleged abduction of the 1st Defendant. A copy of the letter written to the Inspector General of Police was produced and marked **“SET2”**.

5.11 The 4th Defendant added that on 3rd June, 2024, the 1st Plaintiff went to Lusaka Central Police Station in the company of journalists from various media houses and allegedly filed a criminal complaint against him and others for criminal libel and he wanted the police to arrest him.

5.12 That the arrest was based on the media statement which he had issued on 2nd June, 2024 in which he demanded for the Police to immediately arrest the three individuals who were named by the 1st Defendant for his abduction which individuals included the Plaintiffs.

5.13 He deposed that the Police had so far ignored the Plaintiffs complaint for criminal libel against him and

were instead actively investigating the Plaintiffs for the alleged abduction of the 1st Defendant.

5.14 The 4th Defendant thus asserted that the decision by the Plaintiffs to sue him for alleged defamation lacked merit and was a mere ploy to divert public attention from the fact that the 1st Defendant had named the Plaintiffs as some of the people that were involved in his abduction. The 4th Defendant produced a copy of a sworn affidavit by the 1st Defendant which named the Plaintiffs as some of the people that were involved in his abduction. The same was marked **“SET3”**.

5.15 In this regard, the 4th Defendant deposed that his call for the Police to expedite investigations and arrest the named abduction suspects constituted fair comment and was not defamatory in any way to the Plaintiffs.

5.16 He reiterated that the Plaintiffs application for an injunction was premised on the same facts and arguments as the main matter and that granting the said injunction in the absence of a trial would be prejudicial to him and seriously hinder his ability as an opposition political party leader to provide checks and balances to the Government of the day where the 1st Plaintiff was a senior member as State House Special Assistant to the President Politics.

6. THE PLAINTIFFS AFFIDAVIT IN REPLY

- 6.1 The Plaintiffs filed an affidavit in reply to the 3rd and 4th Defendants affidavits which was sworn by the 1st Plaintiff on his own behalf and that of the 2nd Plaintiff.
- 6.2 Regarding the denial by the 3rd Defendant that she did not run, manage and administer the NDC party page, it was deposed that she was the one who ran, managed and administered the said page and that if she had stopped doing so, it was because of the proceedings before Court.
- 6.3 The Plaintiffs disputed the 3rd Defendant's assertion that the words complained of were true and maintained that they were not true at all and were extremely defamatory and injurious to their reputation.
- 6.4 In relation to the 3rd Defendant's position that she had not repeated the words complained of, the Plaintiffs deposed that the 3rd Defendant during a Citizen's First (CF) party press briefing held on 6th June, 2024 live streamed on Facebook endorsed the said defamatory words of the Plaintiffs. That she confessed to sharing the 1st Defendant's and 4th Defendant's defamatory words of the Plaintiffs on her personal Facebook Page. The Plaintiffs exhibited a flash containing the said footage (video number 1) of the 3rd Defendant speaking during the said press briefing which was marked as **"LJN1"**.

- 6.5 Regarding the contents of paragraphs 6 to 9 of the 4th Defendant's affidavit on the sequence of events, it was deposed that the same was hearsay and the 4th Defendant was put to strict proof.
- 6.6 The Plaintiffs asserted that they did not in any way form or fashion participate in the alleged abduction of the 1st Defendant as alleged at all and that was the reason they commenced these proceedings against the Defendants.
- 6.7 The deponent added that the 4th Defendant had repeatedly referred to the Plaintiffs as "**Abductors**" in his statements and letters on his Facebook page as shown as "**LJN4**" in the affidavit in support.
- 6.8 It was also deposed that there was no evidence that the police had ignored their complaints against the Defendants and were only pursuing the active investigations of the Plaintiffs.
- 6.9 The Plaintiffs also denied the assertion that their intention was to divert public attention but that it was to assert their rights to have their reputation protected from unfounded and unwarranted defamatory attacks.
- 6.10 The Plaintiffs also explained that none of the 4th Defendant's statements referred to them as suspects but that by his statements, he had already convicted

and sentenced the Plaintiffs for a felonious crime which they had not committed. The Plaintiffs produced “LJN1” being a flash containing footage (video number 2 and 3) of the 4th Defendant defaming them in the presence of the 1st Defendant’s counsel during a press briefing streamed live on Facebook on 3rd June, 2024 on his page and another instance on or about 5th June, 2024.

6.11 Furthermore, it was deposed that providing checks and balances to the Government as an opposition leader did not entail that the 4th Defendant was at liberty to defame anyone who was a Senior Government official or a Senior Leader of the ruling party respectively such as the 1st and 2nd Plaintiff.

6.12 In this regard, it was deposed that this was a proper case for granting of an injunction to enable them maintain and protect their reputation while their matter was being determined by this Court.

6.13 That if the Defendants were not stopped from continuing to utter their defamatory words against them, they stood to suffer irreparable injury which could not be atoned for by an award of damages.

6.14 The Plaintiffs closed by asserting that the continued utterances that they abducted the 1st Defendant had also been putting them in harm’s way in that some members of the society might actually believe the

Defendants and physically attack them. The Plaintiffs produced a flash containing footage (video number 4) showing the 1st Defendant through his counsel defaming them during a live Facebook streaming press engagements during various periods between the 4th June, 2024 and after commencement of this action.

7. HEARING

- 7.1 At the hearing of the application, the Plaintiffs were represented by Mr. C. Sikazwe and Mr. F. Besa. The 1st and 2nd Defendants were not in attendance and no reasons were advanced for their non- attendance notwithstanding the fact that the two were served with the originating process and application by way of substituted service following orders granted this Court.
- 7.2 In this regard, I was satisfied that the two Defendants had deliberately not attended Court and not bothered to respond to the court process. I therefore allowed learned counsel for the Plaintiffs to proceed with the application guided by what was stated by the Supreme Court in the case of **Imbwae v. Imbwae** ⁽¹⁾ that there is no procedural injustice occasioned when a court proceeds where there has been inaction on the part of the party despite being aware of the proceedings.

- 7.3 The same Court also re-echoed this principle in the case of **Robert Simeza and others v. Elizabeth Mzyeche** ⁽²⁾ where it was stated that: **'you cannot force a litigant who does not want to litigate to litigate'**.
- 7.4 The 3rd and 4th Defendant entered appearance and the 3rd Defendant was represented by Mr. A. Rumsey and Ms. C. Phiri, while the 4th Defendant appeared in person.
- 7.5 Learned counsel for the Plaintiffs Mr. Sikazwe relied on the affidavit in support, skeleton arguments and affidavit in reply. Learned counsel for the 3rd Defendant Mr. Rumsey also relied on the affidavit in opposition and skeleton arguments and so did the 4th Defendant who appeared in person. All the parties augmented their written submissions with verbal submissions.
- 7.6 I will not at this stage travel over what is contained in the submissions both written and verbal, suffice it to say that I have considered the same in arriving at this decision. I will be making reference to the submissions as and when it is necessary in this ruling.
- 7.7 I should also state that I am indebted to the parties as they all argued quite passionately in support of their case. This Court has been enlightened and counsel

and the 4th Defendant who appeared in person are commended for being resourceful.

8. DECISION OF THE COURT

- 8.1 By this application, I have been called upon to determine whether the Plaintiffs are entitled to an Order of interlocutory injunction restraining the Defendants by themselves, their servants, agents and/or their counsel or otherwise from further publishing or causing to be printed or published, broadcast, streamed or distributed defamatory words referred to them purporting that the Plaintiffs abducted the 1st Defendant or any similar words defamatory of them pending the hearing of this matter or until further order of this Court.
- 8.2 What is clear from the affidavit evidence by the Plaintiffs is that the statements complained of were allegedly published through various Television, Newspapers and online media platforms.
- 8.3 In the world of digital transformation, the internet revolution and rapid progress in technology and communications, social networking is almost an unavoidable part of society in this age. As much as social media allows the dissemination of positive messages and information, false and fake news and

information could spread virally once put on social media.

- 8.4 When an individual or organisation believes its reputation has been harmed by false information published on various social media platforms, a common response or recourse is to file a defamation lawsuit. And the usual laws of defamation apply whether the words complained of were published and printed on various social media platforms or otherwise.
- 8.5 While the traditional remedy available to the plaintiff is primarily monetary damages, there are some instances when damages may not be adequate and the plaintiff may seek an interim or interlocutory injunction.
- 8.6 The jurisdiction of the Court to grant an interim or interlocutory injunction in the field of defamation arises where there has been or there is a threatened publication of a defamatory statement or falsehood. The order of injunction then would restrain the threatened or repeated publication of defamatory statements about the claimant.
- 8.7 However, it is important to state from the onset that it has been repeated as a truism that: “equity will not enjoin a libel”. Therefore, the jurisdiction of the Court to grant an order to restrain publication of defamatory

statements is of a delicate nature which ought only to be exercised in the clearest of cases and any court must be satisfied in all probability that the alleged libel was untrue.

8.8 This means that an injunction being an equitable remedy is granted in the discretion of the court and that discretion should be exercised cautiously and with circumspection.

8.9 This is the theme that runs through the words of Lord Esher in the case of **William Coulson v. James Coulson** (3). The reluctance to grant peremptory injunctions is rooted in the importance attached to the right of free speech and because the questions that arise during the proceedings such as whether the meaning is defamatory, whether justification or fair comment are applicable and malice are generally for determination at a later stage.

8.10 In this regard, interim or interlocutory injunctions in defamation actions are granted on different principles from the general principles governing the grant of interlocutory injunctions as the court is entitled to consider the merits of the case in order to determine whether or not an interim or interlocutory injunction should lie.

8.11 Thus the practice established in applications for interlocutory injunctions by the **American Cyanamid**

v. Ethicon (4) case of not considering the merits have been rejected as inappropriate in defamation as the principles contained therein are not of universal application.

8.12 Having said that, the Order sought herein is to prevent the repetition of an alleged wrong. Therefore, I consider it appropriate to quote a passage from the judgment of Lord Coleridge, C.J, in the case of Bonnard v. Perryman (5) where after affirming the court's power to grant interlocutory injunctions as a matter of jurisdiction he went on to say that:

“But it is obvious that the subject matter of an action for defamation is so special as to require exceptional caution in exercising the jurisdiction to interfere by injunction before the trial of an action to prevent an anticipated wrong. The right of free speech is one which it is for the public interest that individuals should possess, and, indeed, that they should exercise without impediment, so long as no wrongful act is done; and, unless an alleged libel is untrue, there is no wrong committed; but, on the contrary, often a very wholesome act is performed in the publications and repetition of an alleged libel. Until it is clear that an alleged libel is untrue, it is not clear that any right at all has been infringed; and the importance of leaving free speech unfettered is a strong reason in cases of libel for dealing most cautiously and warily with the granting of interim injunctions.”

8.13 It is also important to elucidate the other reason why the courts are reluctant to grant injunctions in defamation cases unless in very clear cases. I find the

words of Lord Denning in the case of **Fraser v. Evans** (6) to be persuasive and apt. He stated that:

“But the better reason is the importance in the public interest that the truth should be out. As the Court said in that case: the right of free speech is one which it is for the public interest that individuals should possess and indeed that they should exercise without impediment so long as no wrongful act is done.

There is no wrong done if it is true or if this is a fair comment on a matter of public interest. The Court will not prejudice the issue by granting an injunction in advance of the publication.”

8.14 What comes out clearly from the above cases is that the subject matter of an action for defamation is so special as to require exceptional caution in exercising the jurisdiction to interfere by injunction before the trial of an action to prevent an anticipated wrong. This is because individuals possess the right to free speech which is in the public interest.

8.15 Therefore, until it is clear that an alleged libel is untrue, the importance of leaving free speech unfettered is a strong reason in cases of libel for dealing most cautiously and warily with the granting of interim injunctions. The Court will therefore prejudice an issue by granting an injunction.

8.16 Given the foregoing, it is clear that injunctions are very rare in defamation cases. The plaintiff who seeks an injunction must satisfy a higher threshold than

other civil plaintiffs who seek injunctions like residents who wish to stop a building being demolished.

8.17 In assessing whether this is a clear case warranting the grant of an interlocutory injunction, the authors of Gately on Libel and Slander state that the court will only grant an injunction where the claimant satisfies the court on the following:

- (i) The statement is unarguably defamatory;
- (ii) There are no grounds for concluding the statement may be true;
- (iii) There is no other defence which might succeed;
- (iv) There is evidence of an intention to repeat or publish the defamatory statement.

8.18 In addition to these factors, paragraph 167 of the Halsbury's Laws of England states that the claimant should prove that if further publication of the words threatened or intended takes place, he will suffer injury of such a nature that damages would not be an adequate remedy.

8.19 In view of the foregoing statement of the law, I shall proceed to consider whether or not the Plaintiffs have satisfied the above conditions to enable this Court grant the Order of injunction sought as the burden of proof falls on the Plaintiffs and not the Defendants.

9. STATEMENT UNARGUABLY DEFAMATORY

9.1 When considering this condition, it is not sufficient for a claimant to establish that the words are capable of being defamatory; the court must be satisfied that a jury would inevitably come to the conclusion that they were defamatory.

9.2 What then is defamation?

9.3 According to the author Gately on Libel and Slander, defamation is committed:

“When the defendant publishes words or matter containing an untrue imputation against the reputation of the claimant...if the publication is made in a permanent form or is broadcast it is libel and if in some transient form, it is slander.”

9.4 It is evident from the foregoing definition that the statement must be made public or must be published; it should name the person who is the claimant; must be untrue and also must have a negative impact on the claimants' reputation.

9.5 The Supreme Court in the case of **Bevin Ndovi v. The Post Newspapers Limited and Times Printpak Zambia Limited** (7) also stated that defamation is the publication of a statement which reflects on a person's reputation and tends to lower him in the estimation of

right-thinking members of society generally or tends to make them shun or avoid him.

9.6 However, even if a statement is damaging to a person's reputation and causes them loss or harm, if it is true, it does not qualify as defamation.

9.7 The Supreme Court in the above case also stated that a determination whether the words complained of by the Plaintiff are capable of bearing a defamatory meaning is a question of law. It is not for the plaintiff or witness to say so.

9.8 In this regard, Lord Selborne in the case of **Capital and Counties Bank Limited v. George Henty and Sons** ⁽⁸⁾ stated that:

“The true test is whether in the circumstances in which the statement was published, reasonable persons to whom the publication was made would understand it of the Plaintiff and in a defamatory sense.”

9.9 Therefore, in ascertaining whether or not the words complained of are defamatory, I am required to consider the statements as a whole and interpret words complained of in their natural and ordinary meaning.

9.10 It was however pointed out by the learned authors Clerk and Lindsel on Tort that:

“Whether the statement is defamatory or not depends not on the intention of the defendant but on the probabilities of the case and on the natural tendency of the publication having regard to the circumstances of the case.”

9.11 In the present case, the Plaintiffs have highlighted statements made by the Defendants which they contend are clearly defamatory. These statements are basically that the 1st Defendant had named them as persons who were responsible for his abduction.

9.12 That in their natural and ordinary meaning, the libellous and defamatory words meant and were intended to mean that the Plaintiffs were at all material times incompetent and unfit for public or political office, dangerous criminals, persons of questionable character, abusing their public status and positions which they held to malign, silence and abduct leaders and members of the opposition critical to the government and ruling party when in fact not.

9.13 The question I ask myself then is this: In the circumstances, in which the words were published, can reasonable persons to whom the publications were made understand it of the Plaintiffs and in a defamatory sense? In other words, what would ordinary people have reasonably understood the words to have meant using their general knowledge and common sense?

- 9.14 In answering this question, it is important to note that the right to reputation is acknowledged as an inherent personal right of every person and is more valuable than any other property. The 1st Plaintiff has pleaded that he is a national leader in Zambia, was a Member of Parliament for Sinda Constituency for fifteen (15) years and is currently the Special Assistant to the President of the Republic of Zambia for Political Affairs under the ruling United Party for National Development (UPND).
- 9.15 The 2nd Plaintiff has also pleaded that he is a national political leader in Zambia and currently the Deputy National Youth Chairperson in the ruling UPND.
- 9.16 What the foregoing means is that the Plaintiffs are 'public' figures and are supposed to maintain a positive image as their conduct is and should of course be subject to public scrutiny. The question posed therefore is considered against this backdrop.
- 9.17 Clerk and Lindsel on Tort state at paragraph 22-30 that a suggestion that a person is suspected of crime, without any imputation of actual guilt may be libellous. Furthermore, the authors of Gately on Libel and Slander state that an imputation of a criminal offence or conviction would usually be defamatory.
- 9.18 By the use of the words 'may be' and 'usually' denotes a possibility of the statement being defamatory. In

view of what has been stated by the above authors, the impugned publications against the Plaintiffs who have been mentioned by name on the face of it impute an allegation of the commission of a criminal offence which would cause any reasonable person to perceive them unfavourably.

9.19 Then again, it is not altogether easy to keep the question whether the statement is unarguably defamatory, that is unquestionable or undisputable, from the question whether there are no grounds to conclude that the statement is true.

9.20 I say this because as I have already alluded, the learned authors Clerk and Lindsel on Tort state that a determination whether a statement is defamatory or not depends not on the intention of the defendant but on the probabilities of the case and on the natural tendency of the publication having regard to the circumstances of the case.

9.21 I shall therefore proceed to consider the second condition because that question will give a discernment on the context and circumstances in which the statements were made.

10. THERE ARE NO GROUNDS FOR CONCLUDING THAT THE STATEMENTS ARE TRUE

10.1 On this precondition, paragraph 27.5 of Gately on Libel and Slander states that:

“As a general rule, the Plaintiff who applies for an interlocutory injunction must shew the statement to be untrue. In practice, it is customary if not invariable for there to be some evidence even if limited to assertions by the claimant of the falsity of the allegations, for in the absence of such evidence the court may in the exercise of its discretion and having regard to the delicate nature of the jurisdiction refuse an injunction.”

10.2 In view of the foregoing, the Plaintiffs must show that the statement that they are the ones who were involved in the abduction of the 1st Defendant is untrue because in the absence of such evidence the court may in the exercise of its discretion and having regard to the delicate nature of the jurisdiction refuse an injunction.

10.3 In their affidavit in support, the Plaintiffs assert that the Defendants caused to be published false and malicious statements that they were involved in the abduction of the 1st Defendant.

10.4 Furthermore, in reply to the contents of paragraph 7 of the 3rd Defendant’s affidavit in opposition in which she deposed that it was true that the 1st Defendant had named them as being involved in his abduction as shown by a sworn affidavit by the 1st Defendant in cause no. 2024/HP/0829, the Plaintiffs assert that the words complained of are not true at all and are extremely defamatory and injurious to their reputation.

10.5 In addition, the Plaintiffs in reply to what the 4th Defendant deposed to in paragraphs 6 to 9, they assert that they did not in any way, form or fashion participate in the alleged abduction and that was the reason that they commenced this action.

10.6 In the oral submissions made by counsel for the Plaintiffs, it was also submitted that the Defendants had made clearly defamatory statements in the sense that it was an allegation that the Plaintiffs had committed a felonious serious crime and there was no basis whatsoever for the justification of the defamatory words. This was because there had been no charge, trial or indeed a conviction of the Plaintiffs. That all the Defendants had made statements on hearsay and there was no basis to justify the continuous utterances of the defamatory words by the Defendants.

10.7 Therefore, in terms of evidence, the Plaintiffs have merely asserted the falsity of the statements published.

10.8 However, I will pause here and mention again that the words attributed to the 1st Defendant through his counsel impute an allegation of the commission of an offence. The author Gately on Libel and Slander states at paragraph 4.10 that as in all cases of defamation, words which constitute accusation of crime must be considered in the context in which they were used.

- 10.9 Therefore, in order for this Court to determine whether there are no grounds for concluding that the statements are true, it is imperative that the context in which the words published by the 1st Defendant's counsel were used is considered.
- 10.10 It is very clear from the pleadings and the affidavit in support that the Plaintiffs contend that the 1st Defendant instructed his counsel Mr. Sakwiba Sikota SC between 26th May, 2024 and 3rd June, 2024 on various other occasions to falsely and maliciously publish to the whole wide world through internet words libellous and defamatory of them.
- 10.11 The 1st Defendant has not entered appearance and filed defence to the action and opposed this application. He has not even bothered to attend court after being served by way of substituted service.
- 10.12 The same applies to the 2nd Defendant who it is alleged is the owner, manager and administrator of an online social media platform known as 'Zambian Whistle Blower' on Facebook and other accounts on You-tube, Twitter, Instagram, Telegram, WhatsApp, Threads and TikTok.
- 10.13 In this regard, this Court has not been afforded an opportunity to discern the context in which the impugned words were given and their position

regarding the claims that have been made by the Plaintiffs against them and if at all they have any defence.

10.14 While that is the case, it is important not to ignore the elementary principle of law that he who alleges must prove. The Supreme Court emphasised this point in the case of **John Kunda v. Konkola Copper Mines** ⁽⁹⁾ where it stated that they had on a number of occasions reminded litigants that it was their duty to prove their allegations and not for the defendant to prove his innocence.

10.15 In the same case, reference was made to the case of **Khalid Mohamed v. Attorney General** ⁽¹⁰⁾ and **Masauso Zulu v. Avondale Housing Project** ⁽¹¹⁾ where it was stated that:

“The plaintiff must prove his case and if he fails to do so, the mere failure of the opponent’s defence does not entitle him to judgment. I would not accept a proposition that even if a plaintiff’s case has collapsed of its own inanity or for some reason or other judgment should be nevertheless be given to him on the ground that a defence set up by the opponent has also collapsed. Quite clearly a defendant in such circumstances would not need a defence.”

10.16 The tenor of the Supreme Courts judgments in these cases is that you cannot hang the destiny of your case on what your opponent might or might not do in court.

10.17 On the authority of these case, I have stated that the burden is on Plaintiffs to satisfy or prove the pre-conditions as they are not entitled to the equitable remedy of an injunction as a matter of right or course just because there is no appearance from the 1st and 2nd Defendant. My duty will then be to evaluate the facts set forth by the Plaintiffs in the absence of counter-affidavits from these Defendants.

10.18 What is apparent from this action is that apart from commencing an action against the 1st Defendant, the Plaintiffs have also sued the 2nd, 3rd and 4th Defendants individually and severally. This is on the basis that they published false statements about them to the whole wide world through the internet which were initially uttered by the 1st Defendant's counsel.

10.19 That based on what was stated by Lord Devlin in the case of **Lewis v. Daily Telegraph Limited** (12), the three Defendants cannot escape liability by merely stating that they were repeating what the 1st Defendant's counsel had said.

10.20 Under the repetition rule, if a person re-publishes defamatory matter, then he or she is just as liable as the first publisher of the defamatory matter. The 2nd Defendant as I have said has not entered a defence and opposed the application. The 3rd Defendant on the other hand in her defence and affidavit in opposition has pleaded justification, this is to say that the alleged

words are true in substance and in fact as the 1st Defendant named the Plaintiffs as the ones who were involved in his abduction.

10.21 The 4th Defendant in his defence and affidavit in opposition has pleaded that his demand for the police to arrest the alleged perpetrators who were the Plaintiffs was neither malicious, libellous, false nor defamatory but was fair comment as it amounted to a call on the police to enforce the law in a fair and equitable manner regardless of the social or political status of the accused persons.

10.22 Since at this stage I have been called upon to consider whether there are no grounds for concluding that the statements are true, it is important to consider the defence of justification which the 3rd Defendant has pleaded.

10.23 It is a complete defence to an action for defamation for the defendant to plead justification, that is, that the statement is true. It is a general rule that where the defendant contends that the words complained of are true and asserts that he will plead and seek at trial to prove the defence of justification, the court will not grant an interim injunction unless exceptionally the court is satisfied that such a defence is one that cannot succeed.

10.24 Furthermore, Matibini J. (as he then was) quoting the Halsbury's Laws of England in the case of **Michael Chilufya Sata v. Chanda Chimba III and others** ⁽¹³⁾ stated that:

'It is not enough for a defendant in the face of a statement that the words are untrue to merely state that he intends to justify. Before pleading justification, a defendant should believe that the words complained of were true, intend to support the defence at trial and have reasonable evidence to support the plea or reasonable grounds to suppose that sufficient evidence to prove the allegations would be available at trial.'

10.25 In addition, Lord Denning in the case of **Crest Homes Limited v. Ascott** ⁽¹⁴⁾ stated that:

'Where there were reasonable grounds for the defendant saying he was going to justify; the court would not grant an interlocutory injunction.'

10.26 It is clear upon a fair reading of the above cases that before pleading justification, a defendant should believe that the words complained of were true and that the defendant intends to support the defence at trial and has reasonable evidence to support the defence.

10.27 This means that for the 3rd Defendant to justify the repetition of the impugned statement, she has to prove that the words of the statement are true and not that the statement was made.

10.28 From 3rd Defendant's defence and affidavit in opposition, the 3rd Defendant relies on the affidavit filed by the 1st Defendant under cause number 2024/HP/0829 marked as "**SI1**" in her affidavit in opposition. The same affidavit sworn by the 1st Defendant was produced by the 4th Defendant in his affidavit in opposition and it is marked as "**SET3**".

10.29 The 3rd Defendant also relies on the article in the Daily Nation which she exhibited as "**SI2**" in which it was reported that the 1st Defendant had narrated his abduction and disclosed how his assailants had cruelly tortured him.

10.30 The 3rd Defendant in her submissions thus contends that in the supporting affidavit of this application, it is evident that the publication complained of is true as the 1st Defendant through his counsel disclosed who his abductors were and he disclosed in a sworn affidavit that the Plaintiffs were involved in his abduction.

10.31 While the 3rd and 4th Defendants have relied on these pieces of evidence, I do agree with the Plaintiffs that the 1st Defendant who is the primary originator of the statement complained of has not entered appearance and opposed the application for an injunction.

10.32 That notwithstanding, the Plaintiffs did not object to the admission of the evidence by the two Defendants

as exhibited in “**SI1**” and “**SET3**”. In point of fact, they responded to what was deposed to by the 3rd Defendant that the 1st Defendant had named the Plaintiffs as persons who were involved in his abduction by denying that they were not involved in the abduction.

10.33 That being the case, on the authority of the case of **Edward Jack Shamwana v. The People** ⁽¹⁵⁾, I have taken judicial notice of the fact that the 1st Defendant filed an affidavit verifying facts under cause No. 2024/HP/0829 in which he disclosed that the Plaintiffs were the ones who abducted him.

10.34 This Court obviously takes no position on the accuracy or veracity of the contents therein as the issue is a contentious one which has to be investigated at trial stage. Therefore, as far as the 3rd Defendant’s defence is concerned, she has to satisfy this Court at trial stage that the words are true in substance and in fact.

10.35 What is the position regarding the 4th Defendant?

10.36 What I have discerned from the Plaintiffs and 3rd and 4th Defendants pleadings and affidavit evidence including the exhibits is that there have been online media reports that the Plaintiffs were the ones who were involved in the abduction of the 1st Defendant.

This follows what was published by the 1st Defendant's counsel.

10.37 To be precise, this is evident from the Plaintiffs statement of claim where they averred that the statement by the 1st Defendant's counsel was reported in the News Diggers, Diamond Television, Whistle blower and various television, newspaper and online social media platforms. The 3rd Defendant also referred to exhibit "**SI2**" which is a copy of an article in the Daily Nation where it was reported that the 1st Defendant had narrated his abduction and had also named the Plaintiffs as his abductors.

10.38 What I understand from the publication marked '**LJN1**' in the Plaintiffs affidavit in support which is a publication by News Diggers, is that it was reported that the 1st Defendant had revealed through his lawyer Sakwiba Sikota SC that the Plaintiffs were involved in his abduction.

10.39 The 4th Defendant also in his affidavit deposed that the 1st Defendant's counsel had revealed that the Plaintiffs were his abductors. It is thus evident that the issue concerning the people who allegedly abducted the 1st Defendant is in the public domain.

10.40 It is contended by the 4th Defendant that based on the revelation by the 1st Defendant's counsel, he demanded for the arrest of the alleged perpetrators as

shown by his letter to the Inspector General of Police marked as **"SET1"**.

10.41 The 4th Defendant also asserts that the Inspector General of Police responded to his call by a letter marked **"SET2"**. In the view that I hold, the response from the Inspector General of Police is significant when one considers the circumstances surrounding this case as I have highlighted in the preceding paragraphs. And also because the Plaintiffs in showing that there are no grounds to conclude that the statements are true, they contend that there have not been charged, tried or convicted for any offence and so the Defendants have made the statements based on hearsay.

10.42 Although the letter marked **"SET2"** from the office of the Inspector General of Police relates to post publication events, it has revealed that the Zambia Police Service has instituted vigorous investigations in the alleged abduction of the 1st Defendant. It was stated in the said letter that it was imperative that they do not only act professionally and fairly as a Police Service to all citizens but that they were also perceived by the general public to be doing so.

10.43 The Plaintiffs in their affidavit in reply have neither confirmed the said investigations nor disputed the same but merely asserted that the contents in

paragraph 11 of the 4th Defendant's affidavit are in his peculiar knowledge.

10.44 Therefore, while the Plaintiffs have asserted that the statements are false as they have not been charged, tried or convicted, it is common cause that before any person can be charged, tried or convicted/acquitted as the case may be, there must be an investigation conducted by the appropriate law enforcement authority.

10.45 In the present case, investigations into the alleged abduction of the 1st Defendant which touch on the sting of the libel case have been set in motion. There is no evidence on the outcome of the investigations at this stage or indeed any evidence that the investigations against the Plaintiffs have been discontinued due to insufficient evidence to warrant an arrest.

10.46 In the absence of such evidence and having considered the context in which the impugned publication was made and also the position taken by the Plaintiffs that the statements are false, I cannot safely state that the Plaintiffs have at this interlocutory stage shown on the face of it that there are no grounds to conclude that the statements that they were involved in the abduction of the 1st Defendant are true.

10.47 I say this taking in consideration the fact that the 1st Defendant has not filed a defence and opposed the application. Nonetheless, the case authorities are clear that the plaintiff who applies for an interlocutory injunction must show the statement to be untrue by adducing evidence.

10.48 For instance, in the case of **Michael Chilufya Sata v. Chanda Chimba (T/A Phibajo Productions)** ⁽¹⁶⁾ which was an action for libel, the plaintiff had also applied for an interlocutory injunction to restrain the defendant from distributing and circulating copies of SUFZ NEWS with headlines like '**Sata is a sick man**', '**Close encounter with the cobra**' and '**King Cobra spearheads homosexual encounter.**'

10.49 In denying the allegations made therein as being untrue, the plaintiff contended regarding the allegation that he was a sick man that whereas he had been evacuated to South Africa and treated at Milpark Hospital in Johannesburg, he was discharged after full recovery in the month of April, 2008. He also asserted that he even participated in the Presidential Elections as a candidate for the Patriotic Front and he had engaged in vigorous country wide campaigns. That this was a testimony of his good health.

10.50 He also filed an affidavit in reply which was sworn by his cardiologist who confirmed that the plaintiff was his patient but categorically denied the contents of the

medical report that had been produced by the defendant.

10.51 On the affidavit evidence filed by the plaintiff therefore, Kabuka J. (as she then was) found that there was nothing to support the allegation made by the defendant that the plaintiff was a sick man.

10.52 This case underscores the point that there must be *prima facie* evidence to show that the statement complained of is untrue. There is no such evidence in the present case except mere assertions of the falsity of the statements which in my view is not sufficient considering the circumstances of this case.

10.53 In view of what I have highlighted, I find that the Plaintiffs have failed at this stage to prove to the satisfaction of this Court that the statement complained of are unarguably defamatory and also that there are no grounds to conclude that the words are true. I shall proceed to consider the third ground.

11 **THERE IS EVIDENCE OF AN INTENTION TO REPEAT OR PUBLISH THE DEFAMATORY STATEMENT**

11.1 The point is this on this ground. The court will not grant an interim injunction unless there is some evidence or there are grounds to infer that the

defendant threatens or intends to continue the publication of the words.

11.2 Therefore, a plaintiff has to prove that there is reason to believe that publication or further publication of words is threatened or intended to warrant the court's intervention and protection.

11.3 The learned authors of Gatley on Libel and Slander stated that:

“Where the defendant continues to publish the false or defamatory words and immediate and irreparable injury to a person or property is likely to result, the Court has jurisdiction to grant an interlocutory injunction restraining the defendant from further publishing the words until the hearing of the action, or until further Court Order.”

11.4 Further, it was stated in the case of Smithline Beecham P.K. v. Opotex Europe Limited⁽¹⁷⁾ that the Court will not grant an interim injunction unless there is some evidence or there are grounds to infer that the defendant threatens and intends to continue the publication of the words.

11.5 On this point therefore the court in the case of Quartz Hill Consolidated Gold Mining Company v. Beall⁽¹⁸⁾ discharged an injunction earlier granted as the court found that there was no intention on the part of the defendant to issue any more circulars and there were no grounds to make such an inference.

11.6 In the present case, the Plaintiffs have asserted in paragraph 16 of the affidavit in support that the Defendants have on various occasions too numerous to itemise after the incidences referred to in paragraph 5 to 15 repeated and threatened to repeat the libellous and defamatory words on their respective Facebook accounts, in the press and media briefings.

11.7 I will start with the 2nd Defendant. No evidence has been adduced to show that after the publication was made as shown in **“LJN2”**, he had on various occasions threatened and repeated to publish the alleged defamatory words apart from what the Plaintiffs contend as shown in paragraph 11.6 above.

11.8 I find that this ground has not been proved in relation to the 2nd Defendant.

11.9 Regarding the 3rd Defendant, the Plaintiffs have in paragraph 10 asserted that in addition to the statement published by the 3rd Defendant, she had repeated the libellous and defamatory words during a press conference held by Citizens First at their party secretariat in Lusaka. That this was streamed live on Facebook on 6th June, 2024 on the NDC page and Harry Kalaba’s Facebook profile where she vehemently insisted on repeating the libellous and defamatory words against the Plaintiffs after she was

notified of the Plaintiffs intentions to institute legal action against her.

11.10 To support the assertion that there was an intention to continue publishing the statements, the Plaintiffs in the affidavit in reply produced a flash which was marked "**LJN1**" containing the video footage of the 3rd Defendant speaking during the said press briefing.

11.11 The 3rd Defendant in her affidavit in opposition denied this allegation in paragraph 10 as she deposed that she had never repeated the words complained of whether on her Facebook account, in a press statement or media briefing or live stream on social media.

11.12 Regarding the 4th Defendant, it was deposed that the 4th Defendant in response to a letter of demand had stated that he was merely repeating the statements made by the 1st Defendant's counsel. That on 4th June, 2024, the 4th Defendant in the presence of the 1st Defendant's counsel repeated the libellous and defamatory words during a press conference in a video streamed live on multiple Facebook channels and posted on his Facebook page.

11.13 Similarly, the Plaintiffs relying on the same exhibit marked "**LJN1**" contends that video number 2 and 3 refers to the press briefing held by the 4th Defendant.

11.14 The 4th Defendant did not address this issue in his defence and affidavit in opposition. He made reference to it in his verbal submissions by stating that there was no evidence by the Plaintiffs that he had made any further statements after the commencement of the matter on 28th June, 2024.

11.15 The 4th Defendant also in response to “**LJN1**” containing the footage on the press briefing he submitted that the video related to a press briefing held on 5th June, 2024 which was way before the matter was commenced on 28th June, 2024.

11.16 That the Plaintiffs had therefore failed to show that he had continued to comment on the issue which was a key ingredient for granting an order of injunction.

11.17 I have considered what the Plaintiffs have pleaded in paragraph 9 of the affidavit in support wherein they contend that the 3rd Defendant on or about 2nd June, 2024, through the NDC Facebook account which she owns and manages, published the words complained of. The Plaintiffs exhibited the said publication which is marked as “**LJN3**”.

11.18 I have carefully analysed the said publication. It does not show the date when it was published. That notwithstanding, video number 1 in “**LJN1**” relates to a press briefing held by the 3rd Defendant. Based on what I am able to discern from the said video footage,

the 3rd Defendant confirms that the 1st Defendant had revealed through the press briefing held by his Counsel that the Plaintiffs were the ones who were involved in his abduction. The Plaintiffs contend that it was held on 6th June, 2024.

11.19 It is not clear to the Court how the Plaintiffs arrived at the date of 6th June, 2024 for me to safely conclude that the briefing was a repetition of what was published on the NDC Facebook page. In addition, there is no evidence that the press briefing was held after she was notified of the Plaintiffs intentions to institute legal action against her as the letter of demand was not exhibited in the affidavit in support.

11.20 Furthermore, the video is not complete and the import of it is unclear. This makes it arduous for this Court to infer that the 3rd Defendant had vehemently insisted on repeating the libellous and defamatory words because the 3rd Defendant has not made reference to that in the short briefing apart from stating that she shared the 1st Defendant's and 4th Defendant's allegedly defamatory statement on her page. It is not clear when these words were shared.

11.21 Moreover, whereas the Plaintiffs contend that the 3rd Defendant had continued to publish the statements through her Facebook page even after the action was commenced, there is no evidence to that effect because this matter was commenced on 28th June,

2024 and there is no evidence that after the application for injunction which was filed on 29th July, 2024 and was served on the 3rd Defendant, she showed an intention to continue publishing the words complained of or that she continued publishing the statements.

11.22 In this regard, I find that the Plaintiffs have failed to prove that there is reason to believe that further publication is threatened or intended by the 3rd Defendant.

11.23 Coming to the 4th Defendant, it is contended that on or about 3rd June, 2024, he published on his Facebook page the words complained of that the 1st Defendant had named the Plaintiffs as his abductors. They have produced an exhibit marked “**LJN3**” which is a copy of the article complained of.

11.24 It is also alleged that the 4th Defendant on or about 4th June, 2024 on his Facebook page placed the caption that: ***Levy Ngoma can go and report to 200 police stations if he wants...I still stand by my words.***

11.25 The 4th Defendant has not denied that he published what is contained in exhibit “**LJN3**”. If I may pause here. Unlike “**LJN2**” which relates to the 3rd Defendant’s alleged publication and is undated, “**LJN3**” is dated 2nd June, 2024.

11.26 Furthermore, I have viewed video footage number 2 which the Plaintiffs contend is a press briefing which was streamed live on Facebook on 3rd June, 2024. However, the 4th Defendant has stated that it was a press briefing held on 5th June, 2024.

11.27 What I can say about video footage in 2 and 3 is that they seem to have been given on two different dates because the 4th Defendant's attire in the two footages is different. And that video footage number 3 appears to be the same statement as the one contained in "**LJN4**" where the 4th Defendant called upon the Zambia Police to arrest the people who were involved in the abduction. Therefore, it cannot be stated that it was a repetition of the statement marked as "**LJN4**".

11.28 What is clear from video footage number 2 is that the 4th Defendant stated that the 1st Defendant's Counsel had mentioned the people who were involved in the abduction and the Government and the Police were denying that the 1st Defendant had done so. He went further and stated that the 1st Defendant's Counsel had mentioned the people who were involved in the abduction of the 1st Defendant and that these were the Plaintiffs and another person.

11.29 Based on this video footage number 2 which is a press briefing, I agree with the Plaintiffs that the 4th Defendant repeated the statements that the 1st Defendant had mentioned who the alleged abductors

were. However, it is difficult to appreciate the context in which the statements were made since the video is incomplete.

11.30 Furthermore, it is also not clear whether in the said statement the 4th Defendant had threatened to continue publishing the statements complained of and that he had actually continued publishing the statements after the commencement of the matter.

11.31 In addition, although the Plaintiffs contends that the 4th Defendant on or about 4th June, 2024 placed on his Facebook page the caption that Levy Ngoma can go and report to 200 police stations if he wants...I still stand by my words, this evidence was not adduced.

11.32 In view of the foregoing, I find that the Plaintiffs have only proved that the 4th Defendant repeated the statements complained of on 5th June, 2024 which was before the action was commenced on 28th June, 2024 but there is no evidence that he threatened to continue publishing the statements and that he had actually published the statements even after the matter was commenced against him.

11.33 In relation to the 1st Defendant, the Plaintiffs contend that he has through his Counsel Mr. Sakwiba Sikota, SC continued to defame them during live Facebook streaming press engagements during various period between 4th June, 2024 and after the commencement

of this action. Reliance has been placed on the video footage number 4 in the flash marked “LJN1”.

11.34 I have viewed the press briefing in said video footage. What I find challenging to ascertain is when the press briefing was held because when I consider the statement given, it appears to be the same as the one referred to in paragraph 6 of the Plaintiffs affidavit in support which they contend was aired on Diamond TV Zambia on their Facebook page on the breakfast show programme of 3rd June, 2024.

11.35 However, in relation to the date, this evidence contradicts what is contained in paragraph 18 of the affidavit in reply wherein the Plaintiffs contend that video number 4 shows a live Facebook streaming press engagement during various period between 4th June, 2024 and after the commencement of the action.

11.36 In view of what I have stated above, it is not clear to this Court that the 1st Defendant through his Counsel continued to issue statements during various press briefings between 4th June, 2024 and after this action was commenced. There is no evidence to confirm this assertion.

11.37 I therefore find that the Plaintiffs have not proved this pre-condition against the 1st Defendant.

11.38 I should pause here and point out something significant regarding the evidence of an intention to repeat or publish the alleged defamatory statement. In the case of **Given Lubinda v. Chilufya Tayali** ⁽¹⁹⁾ in which this Court granted an interlocutory injunction in a defamation case against the defendant, there was clear and satisfactory evidence that the defendant had continued to publish statements about the plaintiff even after the action was commenced.

11.39 The defendant in that case had also indicated in one of the statements that was adduced in the affidavit in reply that he would not stop to write about the corrupt leaders which were the words that the plaintiff had complained of.

11.40 Similarly, in the case of ***Michael Chilufya Sata v. Chanda Chimba III***, which was determined by Matibini J., there was clear evidence that the defendant had continued to produce, distribute and sell CD's and DVD's of the programmes despite the plaintiff having instituted proceedings against him for defamation of character.

11.41 This was the position in the case of ***Michael Chilufya Sata v. Chanda Philip Chimba*** which was determined by Kabuka J. There was evidence and not mere assertions by the plaintiff both in the affidavit in support of the application and the affidavit in reply that the defendant had continued publication of the

editions of SUFZ NEWS which contained articles allegedly defamatory of the plaintiff.

11.42 It is important to note in the present case that the Plaintiffs commenced this action on 28th June, 2024 and the application for an injunction was filed on 29th July, 2024. No evidence has been adduced by the Plaintiffs regarding the Defendants that immediately before and after the action was commenced and after the application for an injunction was filed, the Defendants continued to publish statements complained of.

11.43 The case authorities I have referred to are clear that the court will only grant an injunction when there is evidence or reasonable belief that further publication is threatened or intended to warrant the court's intervention and protection of the claimant. This is because the threshold in applications for injunctions in defamation cases is very high compared to other injunction applications.

11.44 In light of the foregoing, it was not enough for the Plaintiffs to make mere assertions in the affidavit in support that the Defendants had on various occasions too numerous to mention repeated and threatened to repeat the libellous and defamatory words in their respective Facebook accounts without adducing clear evidence.

11.45 For the foregoing reasons, I find that the Plaintiffs have failed to prove that the Defendants have a penchant for repeating the publication of the material subject of this action and that this warrants the intervention and protection from this Court at this stage. Hence this condition which is cardinal has not been satisfied.

12 **THERE IS NO OTHER DEFENCE WHICH MIGHT SUCCEED**

12.1 According to the authors on Gatley on Libel and Slander, the court will not normally grant an interim injunction where the threatened publication will on its face be privileged. The only exception is where the defendant is clearly malicious.

12.2 Further, the same authors go on to state that where the intended defence is fair comment, the position is similar to where the intended defence is that of justification. If the defendant asserts that he will raise such a defence and prove the truth of the facts supporting the comment, then if the matter appears to be one of public interest and the claimant cannot establish malice, an interim injunction will not be granted.

12.3 In view of the foregoing, I will briefly consider defence of fair comment which the 4th Defendant has raised.

12.4 The defence of fair comment protects statements of opinion or comment on matters in the public interest and not imputations of facts. Therefore, freedom of expression and press freedom are largely protected by this defence. Lord Diplock put it this way in the case of **Silkvin v. Beaverbrook Newspaper Ltd** ⁽²⁰⁾ when he stated that:

“The right of the public which means you and me and the newspaper editor and the man who but for the present bus strike would be on the Clapham omnibus to express their views honestly and fearlessly on matters of public interest even though that involves strong criticism of conduct of public people.”

12.5 The modern authoritative statement of the law is found in the case of **Tse Wai Chun Paul v. Albert Cheng** ⁽²¹⁾ where in the Court of Final Appeal of Hong Kong Lord Nicholls outlined the history and principles of the defence. The defendant must overcome four hurdles in order to establish the defence:

- (i) The statement must be comment and not fact.***
- (ii) The comment must have a sufficient factual basis (that is, the comment must be based on facts which are themselves sufficiently true).***
- (iii) The comment must be objectively fair i.e. it must be an opinion which an honest person could hold.***
- (iv) The subject matter of the comment must be of public interest.***

12.6 Lord Nicholls went on to state that the rationale for the defence of fair comment is different and it is different in a material respect from the rationale of the

defence of qualified privilege. He stated that it is not based on any notion of performance of a duty or protection of an interest. Its basis is the high importance of protecting or promoting the freedom of comment by everyone at all times on matters of public interest.

12.7 However, it is important to point out that in protecting the freedom of expression the defence of fair comment in defamation cases presents a tension between the rights to expression and the need to protect reputation. In the case of **Michael Chilufya Sata v The Post Newspapers Limited and Another** ⁽²²⁾ the erstwhile Chief Justice Matthew Ngulube observed that a balance had to be struck between freedom of the press and right to reputation. Matibini J. in the case of ***Michael Chilufya Sata v. Chanda Chimba (III)*** summarized the position of the law as elucidated in the ***Sata v. The Post*** when he held that:

“The right to free speech is one in which it is of the public interest that individuals should possess, and indeed should exercise as long as no wrongful act is done. However, freedom of expression is not absolute or limitless. Its exercise may be subject to restrictions as are necessary in a democratic society. Reputation is an essential component of the dignity of the individual. It must be respected. It must not be assailed without lawful justification. Once reputation is besmirched by unfounded allegations, the damage can be irreparable and everlasting; especially if there is no opportunity given to vindicate one's reputation. When this happens, it is not only

the affected individual and his family that suffer, but society may also at large suffer. Thus the protection of reputation is also in the public interest.

12.8 What this means is that although freedom of expression is recognized, it does not mean that individuals or indeed the press are given the freedom to defame.

12.9 Having said that, I have already stated that the court will not grant an interim injunction where the publication or statements complained of will on its face be privileged or where the intended defence is fair comment. The only exception is where the claimant has established malice.

12.10 Malice in defamation law is a dominant improper motive for publishing the statement. According to Cockburn C.J in the case of **Spill v. Maule** (23), malice maybe inferred in the following circumstances:

“It may be that the language used in a libel though under other circumstances justifiable may be so much too violent for the occasion and circumstances...as to form strong evidence of malice and that an inference of actual malice maybe drawn from its use.”

12.11 I have considered the above defence in a defamation action in relation to the Order of injunction sought by the Plaintiffs.

12.12 The 1st and 2nd Defendants have not entered appearance and have not filed a defence in relation to

the action against them. This means that there is nothing on record to show that the defences I have mentioned might succeed.

12.13 The 3rd Defendant has raised the defence of justification which I have already addressed on the second condition.

12.14 The 4th Defendant has raised a defence of fair comment. The Plaintiffs however contend that the defence of fair comment cannot succeed as he has repeatedly referred to them as "Abductors" in his statements and letters on his Facebook which is exhibited as "**LJN4**". That there is no statement by the 4th Defendant which refers to the Plaintiffs as suspects and as such, the 4th Defendant has already convicted and sentenced the Plaintiffs for a felonious crime which they have not committed.

12.15 The 4th Defendant has denied this and contends that his call to the police was to arrest the named abduction suspects which constitutes fair comment. He relied on '**SET1**' and '**SET2**' in his affidavit in opposition in which the headings clearly indicated suspects. That any person who had been named by a victim as being responsible for committing an offence was referred to as a suspect and any such reference could not be construed to be defamatory.

12.16 I have noted from the exhibit marked "**LJN4**" that the 4th Defendant in his statement stated that the 1st Defendant had named the Plaintiffs as abductors. And

that instead of arresting the named the abductors, the police had decided to arrest the 1st Defendant.

12.17 However, I will not be quick to draw an inference that based on that, the 4th Defendant had already convicted and sentenced the Plaintiffs. I say this because if that was the position, he would not have called upon the police to arrest the people who had been mentioned. And when he wrote to the police as shown in the letter marked "**SET1**", he referred to the Plaintiffs as suspects and not as abductors and he called for the police to arrest the named suspects.

12.18 In addition to the foregoing, I have already made a finding that the issue of the 1st Defendant's alleged abduction is in the public domain and the persons who were allegedly involved in the abduction was widely reported in the Television, newspapers and on-line media as stated by the Plaintiffs themselves.

12.19 It appears to me that the 4th Defendant's call to the police was on a matter of public interest considering the fact that the Plaintiffs and the 1st Defendant are public figures who have filled up public office and they take part in political affairs. Their private character and conduct therefore may be the subject for comment in so far as it has reference to or tends to throw some light on their fitness to occupy office or perform their duties.

12.20 In view of what I have stated above taking into account the circumstances of the case, on the face of it the

defence that the 4th Defendant has raised might succeed. However, I have used the word might because but there is need to interrogate the same at the trial of this matter because issues like malice are generally for determination at a later stage.

12.21 In this regard I find that the Plaintiffs have failed to prove this last condition as far as the 4th Defendant is concerned.

12.22 Regardless of the foregoing, I find that the Plaintiffs have proved against the 1st and 2nd Defendants that they have not raised a defence that might succeed.

12.23 Does that mean that the Plaintiffs have discharged the burden against the 1st and 2nd Defendant for the grant of an interlocutory injunction? I do not think so.

12.24 As earlier alluded to, the Plaintiffs have to satisfy all the four pre-conditions before an order of interlocutory injunction is granted and the cardinal conditions are the second and third conditions that there are no grounds to conclude that the statement is true and also that there is an intention to continue publishing the statements complained of.

12.25 I concur with what Jessel M.R stated in the case of ***Quartz Hill Consolidated Gold Mining v. Beall***, that these two grounds are fatal objections to the application if they have not been met.

12.26 At this interlocutory stage, I find that the Plaintiffs have not satisfied all the four conditions against the

3rd and 4th Defendant and only satisfied one ground against the 1st and 2nd Defendant.

12.27 In addition to the foregoing, it is also necessary to show that damages would not be an adequate remedy. I shall therefore proceed to consider whether damages would be an adequate remedy in this case.

13. **ADEQUANCY OF DAMAGES**

13.1 Tort law aspires to provide claimants with a complete remedy for every injury. The two most common remedies are damages and injunctions which are orders granted to refrain from wrongful conduct or to undo its consequences.

13.2 Unlike compensatory damage awards which claimants are entitled to upon presenting adequate proof of liability, injunctions are granted at the discretion of the court. Under general principles of equity, the court must first determine the adequacy of a remedy in law before resorting to equitable relief.

13.3 According to paragraph 29/L/5 of the White Book on the guidelines on the adequacy of damages as a remedy, one of the fundamental principles of injunction law that the courts must determine when considering whether to grant an injunction or not is whether if a plaintiff succeeded at the trial, he would be adequately compensated by damages for any loss caused by the refusal to grant an interlocutory injunction.

13.4 If damages would be adequate remedy, and the defendant would be in a financial position to pay them, no interlocutory injunction should normally be granted however strong the plaintiff's claim appeared to be at that stage.

13.5 If on the other hand damages would not be an adequate remedy, the court should then consider whether if the injunction were granted, the defendant would be adequately compensated under the plaintiff's undertaking as to damages. If damages in the measure recoverable under such an undertaking would be an adequate remedy and the plaintiff would be in a financial position to pay them, there would be no reason upon this ground to refuse an interlocutory injunction.

13.6 In considering the above principles, the question I ask is this: if the Plaintiffs were to succeed at the trial in establishing their claims set out in the statement of claim, would they be adequately compensated by an award of damages for the loss caused by the refusal to grant an interlocutory injunction?

13.7 In answering this question, I am guided by paragraph 955 of the Halsbury's Laws which provides that:

'The Plaintiff must as a rule show that an injunction until the hearing is necessary to protect them against irreparable injury; mere inconvenience is not enough.'

13.8 According to the Shell and BP (Z) Limited v. Conidaris and others ⁽²⁴⁾ case irreparable injury means:

“Injury which is substantial and can never be adequately remedied or atoned for by damages, not injury which cannot possibly be repaired.”

13.9 The Plaintiffs in this case contend that damages would not be an adequate remedy as they hold very high public offices where a good reputation is a mandatory requirement. That the 1st Plaintiff is the Special Assistant to the President and so this position is so important as he renders services to the highest office in the land. Therefore, the requirement for him to have untainted reputation cannot be overemphasised.

13.10 Likewise, the 2nd Plaintiff is the Deputy National Youth Chairperson for the ruling UPND. To hold such a position at national level, a good reputation is very important. Thus no amount of financial compensation would atone for the injury that the Plaintiffs will suffer.

13.11 The Defendants on the other hand have argued that the injunction is not necessary as the Plaintiffs will not suffer any irreparable injury which cannot be atoned for in damages.

13.12 If I may point out at this stage that there are certain cases in which a claim for damages may not be an

adequate remedy. This is particularly the case where the person sued is unlikely to pay the sum likely to be awarded at the trial; where the wrong is irreparable, for example, where the damage is non-pecuniary, like libel, nuisance or trade secrets and where the damages would be difficult to assess.

13.13 In this regard, I agree with the Plaintiffs that the offices they hold require untainted conduct especially that of the 1st Plaintiff who is the Special Assistant to the Republican President. And since reputation is an essential component of the dignity of an individual, it must be respected and not assailed without lawful justification. This is because once besmirched by unfounded allegations the damage can be irreparable.

13.14 Then again, I have stated in paragraph 8.7 that the jurisdiction of the Court to restrain publication of defamatory statements is of a delicate nature and ought to be exercised in the clearest of cases and that the court must be satisfied in all probability that the alleged libel is untrue.

13.15 I have made a finding at this interlocutory stage, that the Plaintiffs have not shown to the satisfaction of the Court that they have met the threshold for the grant of injunctions in defamation cases that the alleged libel is untrue and that there are reasonable grounds to infer that the Defendants have threatened or that they intend to continue the publication of the

statements in relation to the matters at hand to warrant this Court's intervention and protection.

13.16 Just to accentuate that the above pre-conditions highlighted under paragraph 13.16 are cardinal in determining whether or not to grant an injunction in a defamation case because of the importance of leaving free speech unfettered unless it is clear that a right has been infringed.

13.17 In the case of **Michael Chilufya Sata v. Chanda Chimba III** Matibini J. declined to restrict the plaintiff to the relief of damages as he recognised that damages could never properly put the plaintiff in the position he would have been had the libel not been published because he found that *prima facie* proof of falsity of the statement at the interlocutory stage was sufficient. The same cannot be said about the present case as already highlighted above. In this regard, I would not prejudice an issue by granting an injunction at this stage.

13.18 For these reasons, I find that damages would be an adequate remedy should the Plaintiffs succeed at the trial of this matter since the Plaintiffs have claimed compensatory damages for defamation of character and aggravated and exemplary damages for repeated publication. Therefore, it would be unjust to confine the Plaintiffs to damages should they succeed on their claims at trial.

13.19 To encapsulate, the jurisdiction of the Court to grant an order to restrain publication of alleged defamatory statements is of a delicate nature which ought to be exercised in the clearest of cases after the court is satisfied in all probability that the alleged libel is untrue.

13.20 At this interlocutory stage, I find that this is not the clearest of cases which warrants the exercise of my discretion as I am not satisfied that in all probability the alleged libel is untrue.

13.21 Furthermore, there are no reasonable grounds to infer that that the Defendants have threatened or they intend to continue the publication of the statements complained of to warrant this Court's intervention and protection.

13.22 Moreover, there is evidence that the Zambia Police Service has instituted investigations against the Plaintiffs in the alleged abduction of the 1st Defendant as shown by "**SET3**". These investigations were instituted after the 1st Defendant through his Counsel revealed that the 1st Defendant had named the people who were involved in his alleged abduction.

13.23 Zambia Police Service is mandated under the law to carry out investigations where a complaint has been lodged by a member of the public and where the party

being investigated is alleged to have contravened the law.

13.24 The view I hold is that since the subject of the complaint to the police is related to the subject of the libel case herein, if I were to grant an interlocutory injunction, the injunctive order would have an effect on the investigations that have been instituted given the scope of the injunctive order sought.

13.25 The case of **C and S Investments Limited and 2 others v. Attorney General** ⁽²⁵⁾ illustrates the view I have expressed above because in that case, the Supreme Court held *inter alia* that civil proceedings cannot be used to arrest criminal investigations. In enunciating this principle, the Supreme Court stated that:

“Clearly, any order to release the property would have an impact on the criminal investigations, we do not find that it was far-fetched for the Judge to conclude, in these circumstances, that there was an attempt, through these civil proceedings, to arrest criminal investigations.”


13.26 The Constitutional Court in the case of **Milingo Lungu v. Attorney General and 2 others** ⁽²⁶⁾ agreed with this reasoning and stated that criminal investigations can only be arrested for cogent reasons like the violation of the constitution during the course of investigations.

13.27 In the present case, there is no cogent reason which would empower this Court to grant an order which would impact on the investigations being conducted. On this score as well, an order for interlocutory injunction is not appropriate.

13.28 The upshot of the foregoing reasons which I have highlighted above is that I find based on the fundamental principles of injunction law in defamation cases that this is not a clear and appropriate case in which I can exercise my discretion and grant an interlocutory injunction in favour of the Plaintiffs.

13.29 The application is therefore dismissed for lack of merit. Considering the circumstances of the case, I make no order as to costs.

DELIVERED AT LUSAKA THIS 12TH DAY OF DECEMBER, 2024


..... M.C. KOMBE, J
M.C. KOMBE P.O. BOX 50067, LUSAKA
JUDGE

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
12 DEC 2024