

Filed by:  
**Sisa Namadje & Co**  
Per: Sisa Namandje  
**Legal Practitioners for Plaintiffs**  
No 13 & 15 Pasteur Street  
Windhoek

**Managing judge:** Classen J  
**Date:** 26 April 2023  
**Roll Type:** Pre-Trial conference  
**Time:** 08:30

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**IN THE HIGH COURT OF  
NAMIBIA**

**MAIN DIVISION, WINDHOEK**

**WITNESS STATEMENT: SHAPWA TANGENI KANYAMA**

**RULE 92**

**CASE NO: HC-MD-CIV-ACT-OTH-2022/02957**

**SHAPWA TANGENI KANYAMA**

**1<sup>ST</sup> PLAINTIFF**

**BEATA NDAENDELAO KANYAMA**

**2<sup>ND</sup> PLAINTIFF**

and

**MATHILDE MUTALENI KATOSHE KADHIKWA**

**DEFENDANT**

**BE PLEASED TO TAKE NOTICE** that **SHAPWA TANGENI KANYAMA** will testify at the trial of this matter as the 1<sup>st</sup> plaintiff and the following is his witness statement which will constitute his oral evidence which the Plaintiffs intend to adduce during the trial.

**KINDLY FURTHER TAKE NOTE** that the said witness reserves the right to amplify his evidence where necessary and depended upon further preparation and also with reference to possible further discovery on the part of either party.

**SHAPWA TANGENI KANYAMA** will testify as follows that:

1. I am an adult male with full legal capacity and the 1<sup>st</sup> plaintiff in this matter.
2. I am an established, prominent and successful businessman and entrepreneur in Namibia. I have obtained my qualifications and I have been accredited with a diploma in Diploma in Information Science and a Degree in Industrial and Clinical Psychology.
3. My major areas of business involve farming and supplying medical equipment and consumables as well as pharmaceutical products such as medicine, pharmaceuticals products and clinicals, to the private sector and the Ministry of Health and Social Services on behalf of the government of the Republic of Namibia. I have been supplying these pharmaceutical products through my company named *Africure* Pharmaceutical (Pty) Ltd and AMNICS (Pty) Ltd, which administers the distribution of pharmaceutical products through the Namibian based *Africure* Pharmaceutical factory. My company procured various significant public Procurement tenders with the Ministry of Health and Social services since 2016 to date to deliver medicines to the Ministry.
4. My status in the business community and public products procurement business is therefore significant and far reaching.
5. The 2<sup>nd</sup> plaintiff is my wife following our marriage ceremony which happened on 27 May 2022 at Oniipa Parish, in the Oshikoto region.
6. Our wedding ceremony was celebrated over two days, i.e. 27 and 28 May 2022. It is not in doubt that it was a 'glamorous wedding' which attracted guests with the most luxurious vehicles in the market such as, amongst others, Mercedes Benzes G-Wagon, Audi and Range Rovers. The wedding was further graced with the most elegant features, in terms of a luxurious receptions with wedding decorations put together by some of the sought after south African designer Precious the Planner.

7. The event also attracted prominent local celebrities and prominent personalities and received huge publicity through various media platforms and newspapers.
8. The wedding received huge publicity with guests posting about the wedding and creating live streams on various social media networks.
9. An article from the Namibian Newspapers which reported the event on 3 June 2022 is attached hereto as **STK 1** to the particulars of claim and also forms part of the plaintiffs' bundle of discovered documents.
10. It is trite that the wedding of that magnitude costed us an amount of approximately 10 million.
11. As at May/June 2022 therefore, our wedding event was well within the public sphere as wedding of the year.
12. On or about 30 May 2022, the Defendant made an audio recording containing defamatory statements of and concerning myself. This audio was shared on published and circulated on various WhatsApp groups and social media platforms such as Facebook, Instagram and Twitter. I received the audio from someone who was on the same whatsapp group where the defendant shared the audio.
13. The audio was made in the Oshiwambo language. The audio was officially translated into the English official language by a court accredited translator 13 June 2022. The translated version of the audio is attached to the particulars of claim as **STK 2** and also forms part of the Plaintiffs' bundle of discovered documents.
14. I respectfully state that the audio and the translated version sets out defamatory statements directly about and concerning me. Although my name was not specifically published by the defendant, the following circumstances / facts, as contained in the audio relates to or directly concerns me:

14.1 That I hosted a wedding to the tune of 10 million;

- 14.2 That there were cars at the wedding such as Mercedes Benzes, Audis and Range Rovers;
- 14.3 That I am involved in procuring medicine to the government;
- 14.4 That I own a house in Windhoek with a home Cinema, wine cellar and Gym that trended on social media on or about April 2020. I can confirm this fact, i.e. that my house has a cinema, a wine cellar and a gym and that this information trended on social media around 2020;
- 14.5 That I am a son of a doctor. I can confirm that I am a son of the prominent medical specialist, Professor Kanyama who is then referred to in the audio as the doctor.
15. It is because of the above facts as stated in the audio the statements that I indicate that the statements as made and published were of, and concerned myself, directly or by implication.
16. I further state that the statements made were defamatory in nature, in their own words, by implication, insinuation and suggestions. The translated version of the audio speaks about government money being pocketed and depleted by individuals "who are not serving the nation truthfully and that they only work for their homes; they are only attending to their children". The statement further refers to a lack of medical supplies in hospitals and "meanwhile the person who has to supply this stuff is hosting a wedding of such magnitude".
17. An ordinary, reasonable person hearing or reading the utterances i.e hearers and readers who know, are acquainted with, or know about me or have knowledge about my business, will believe and understand, on the hearing or reading of the utterances, that the words refer to me personally.
18. The nature and effect of the defamatory statements is that the statements were or would have been understood by a reasonable person of ordinary intelligence

or right-thinking members of society, who acquired knowledge thereof to mean that I am corrupt and dishonest in the following respects:

- 16.1 That I used public funds to finance my wedding;
  - 16.2 That I committed crimes;
  - 16.3 That I am unlawfully pocketing government money.
17. The statements, insinuations and suggestions made by the defendant are defamatory, wrongful and infringes on, alternatively is injurious towards my name, dignity, fame, credit or reputation in the estimation of reasonable persons of ordinary intelligence or right-thinking members of society because the statements impute, suggests or directly imply that I am dishonest, that I am a corrupt businessman and that I am committing criminal acts in addition to embezzling public funds for my own benefit and for the benefit of my children.
18. I further state and believe that the defamatory statements were further made intentionally and with malice to lower and undermine my good name, fame, credit or reputation in the estimation of reasonable persons of ordinary intelligence or right-thinking members of society. The defamation was aggravated by the fact that the defendant made the statements immediately after the event, while it is still receiving a lot of publicity.
19. It is not is dispute that the defendant made the defamatory statements in question.<sup>1</sup> The defendant's stance that the defamatory statements were not initiated by her and that the audio repeated the information from the third party<sup>2</sup> and further that same has already been trending on social media is not sustainable and does not constitute a defence in law. A repetition of defamatory statements is equally defamatory and is punishable by law.
20. Despite the translated versions of the audio, it is clear that the statements made therein are both wrongful and defamatory in nature and concerns myself as can be easily identified by the unique features and facts used by the defendant in

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<sup>1</sup> See paragraph 4 of the Plaintiffs' replication.

<sup>2</sup> See paragraph 4 of the defendant's plea.

relation to myself and my wedding event. The audio did not have to mention my name or that of my wife, the second plaintiff, as it is clear as daylight who the audio refers to.

21. I deny that the statements made were not wrongful and defamatory. The statements made were definitely not in the public interest as they are untrue and even though the defendant may have her opinion on public matters, it does not justify the defamatory words used against me. The comments were therefore not fair and reasonable in the circumstances. The fact that the comments made by the defendant were her honest and bona fide opinion of me and in the exercise of her right to freedom of speech, this would not constitute a legal defence against defaming my character as such right is subject to the laws of defamation.<sup>3</sup>
22. The defendant therefore made the statements with the intention to lower and undermine my good name, fame, credit or reputation in the estimation of reasonable persons of ordinary intelligence or right-thinking members of society.
23. The effect of the defamatory statements made by the defendant is really far reaching, not just for me but for my wife, the 2<sup>nd</sup> plaintiff and our family at large. Since the publication of the defamatory statements:
  - 23.1 I have been prejudiced in the Medical Sector (tenders) to the extent that potential clients are discouraged from considering any proposals from any of the companies associated with myself;
  - 23.2 Since May 2022, I have had numerous accusations on various media platforms and chat groups directed at me for almost every little short coming in the medical supplies, even those supplies that do not fall within my are of business. I have and still am, been referred to as the one to be held accountable for such shortcoming. I must honestly indicate to

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<sup>3</sup> See paragraph 8 of the replication.

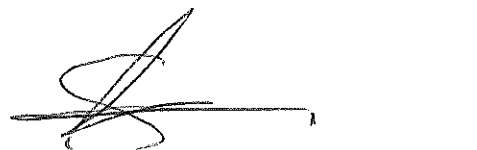
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this honourable court that the social media platform has since become a ground for such accusations directed at me;

- 23.3 I can't move freely in public because I am afraid of getting verbally or physical attacked from members of the public who think I am responsible for the shortcoming of medical supplies in public hospitals. This is a reasonable fear considering the effect and insinuations in the defamatory statements made by the defendant and it has costed me a large amount of money to secure security for myself and my family.
- 23.4 My children have since been subjected to negative comments from their fellow classmates because of the negative image painted on me as a parent, a factor which could possibly affect their safety and performance at school;
- 23.5 I must indicate that the effect of the defamatory statements on my reputation and that of my main business is mentally draining as one is constantly informed of the opinions of others on me as a corrupt business man and this stance is aggravating on a daily basis;
24. I have suffered significant damages as a result of the defamatory statements made by the defendant. Since May 2022, the effect of such defamatory statements has significantly increased, especially in the social media platforms with other third parties referencing the defamatory statements repeatedly.
25. The defendant does not have a legal defence or justification for making these defamatory statements against myself. The defendant's intention is clear from the statements she made, which is to lower and undermine my good name, fame, credit or reputation in the estimation of reasonable persons of ordinary intelligence or right-thinking members of society.
26. To this, the defendant is liable for the damages that I suffered as claimed in the particulars of claim.

I believe that the facts contained in my statement are true and correct to the best of my knowledge.

DATED AT WINDHOEK ON 14 APRIL 2023

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above a solid horizontal line.

**SHAPWA TANGENI KANYAMA**