



National Police Commissioner
Gauteng Police Commissioner
Civilian Secretariat

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16 February 2021

Dear Commissioner Sithole

DJS FRESH AND EUPHONIK AND GBV

1. We refer an article published in the Sunday World news publication on 24 January 2021, authored by Ngwako Malatji. This article contained sensitive and confidential information pertaining to the pending sexual assault cases against Thato Sikwane, popularly known as DJ Fresh (“**DJ Fresh**”) and Themba Nkosi, popularly known as DJ Euphonik (“**DJ Euphonik**”).
2. The contents of the article were sourced from a case opened by the victim of the sexual assault when she reported the assault that occurred in 2011 at Sunnyside Police Station: case number 252/2021.
3. The information used in the Sunday World article comprised of her statement given to a member of the South African Police Service (“**SAPS**”) without the victim’s consent and or knowledge. This conduct (the ‘leak’ of personal and confidential information only to be used for criminal proceedings) is detrimental not only to the safety of victims of gender based violence but also an infringement of their rights to privacy, confidentiality and right of protection under the law.

4. It is common knowledge that South Africa has the highest GBV, Femicide and Rape cases of the world, what causes such heinous crimes to continue is the fact that victims are finding it less and less in their best interest to report such violent acts. The low rate of reporting has a direct impact on the fact that perpetrators are not being held accountable for their acts.
5. The protection of the victim in question as well as the well-being of other survivors of such crimes should be paramount in any investigation. A failure to uphold these values put women in risk of secondary victimisation and further harm from members of the public.
6. The public reporting by a media house of contents contained in a police case file goes against the ethics of the SAPS as well as the responsibility of media houses to report on contents that are fair and free from harm.
7. The Press Council on gathering and reporting on news states that the media shall “obtain news legally, honestly and fairly, unless public interest dictates otherwise”.
8. It is further set out that “care and consideration” must be exercised in “matters involving the private lives of individuals”. It is clear from the leaking of the victim’s police statement and the publication of the article in question that neither care nor consideration was exercised in firstly obtaining the private information and subsequently publicizing it.
9. Publishing the contents of a case that was reported to the SAPS has the impact of obstructing justice. Statements made to the police should be private and confidential, and have the aim of obtaining justice for the victim. As such having the victim’s version of events in the public, especially in a case involving public and influential figures obscures justice in such a manner that is against exercising care and consideration in matters involving private lives of individuals.

10. Further, on the 15 February 2021, DJ Fresh and Euphonik released a statement via their twitter account , claiming that the Chief Prosecutor has declined to prosecute the case and state that the basis for not prosecuting is that the allegations are without merit. At the same time the victim was not informed of such a decision, in fact she was sent a whatsapp message by the investigating officer at 21h17 on the 15 February 2021 and the message read: “ Hi sorry for so late... the docket came back for court today. The court are not going to proceed with the case”. This is a travesty of justice that demand answers and accountability from the SAPS. Firstly, to indicate on what basis did the Chief Prosecutor decline to prosecute? what evidence was placed before the Chief Prosecutor? why was the victim not informed but the alleged perpetrators were?
11. We call upon the SAPS and The Press Council to conduct an investigation in this regard and provide a report to determine whether there are grounds for such a charge of misconduct and/or whether or not the SAPS and/or the newspaper publication carried out their duties of office efficiently.
12. As a feminist organisation, we implore all facets of society to act in a manner that takes into consideration the pandemic of gender based violence and femicide crippling our country and the ways in which the criminal justice system and the media secondary victimizes the millions of abused women.
13. It is our further submission that in terms of the Victim Support Services Bill, 2019 (“**Bill**”), the conduct of the Sunnyside members of the SAPS and the Sunday World did not protect the rights of the victim nor did they mitigate secondary victimisation. In addition, section 14 of the Bill sets out that victims are to be treated with respect and dignity during criminal proceedings and the leaking and publication of a police statement is a violation of such provision.

14. In order to resolve this matter, we request the following:

14.1. An investigation into the apparent negligent and unethical conduct of the members of the SAPS for making a private police statement available for publishing; and

14.2. An investigation into the manner at which the Sunday World obtained details of the incident between the victim and Djs Fresh and Euphonik.

14.3. An investigation on why the victim was not informed of the decision of the Chief Prosecutor but the alleged perpetrators were. An investigation in the nature of the investigation undertaken and how that evidence was collected.

15. We will simultaneously be lodging a complaint with the Press Ombudsman.

16. It is our further instruction that should we not receive a response, we will launch the necessary application without prior notification. A civil application will be brought against the relevant state institutions, the professionals responsible for administering justice in their personal capacity, the publications and relevant journalists and/or editors.

We look forward to receiving a response in 14 days by **COB, 28 February 2021**.

Yours Faithfully,



Brenda Madumise- Pajibo

Director



Onica N. Makwakwa

Director