



HRDs Alert

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DANGAREMBGA, BARNES VINDICATED AS HIGH COURT OVERTURNS MALICIOUS CONVICTION FOR ANTI-GOVT PROTEST

THE High Court on Monday 8 May 2023 overturned the malicious conviction of award winning and renowned novelist, filmmaker and cultural activist **Tsitsi Dangarembga** and **Julie Barnes**, a pro-democracy campaigner, who had been found guilty and penalised by Harare Magistrate **Barbra Mateko**, for allegedly staging an anti-government protest three years ago.

Dangarembga and Barnes were on 29 September 2022 convicted by Magistrate Mateko and sentenced to pay ZWL70 000 each or three months imprisonment in default of the fine and in addition three months imprisonment wholly suspended for five years on condition that each of them does not commit any offence involving participating in a public gathering with intention to promote public violence, breach of peace or bigotry.

The duo, represented by **Harrison Nkomo** and **Chris Mhike** of **Zimbabwe Lawyers for Human Rights**, was convicted after standing trial when they were arrested on 31 July 2020 and charged with participating in a public gathering with intention to promote public violence, breach of peace or bigotry as defined in Section 37(1)(b) of the Criminal Law (Codification and Reform) Act.

During trial, prosecutors alleged that they participated in a demonstration held on 31 July 2020 in Borrowdale suburb in Harare while holding some placards inscribed “Free Hopewell, free Jacob #Zimbabwe”, “We want better reform our institution” and “Free our journalists”.

After their conviction by Magistrate Mateko, the duo on 13 October 2022 filed an appeal against both conviction and sentence at the Harare High Court arguing that Magistrate Mateko fundamentally misdirected herself in finding them guilty in the absence of evidence linking them to participating in a public gathering with intention to promote public violence, breach of peace or bigotry.

Dangarembga and Barnes argued that Magistrate Mateko grossly misdirected herself in abandoning the analysis on whether or not the words written on some placards which they were accused of holding during the 31 July 2020 anti-government protest, were obscene, threatening, abusive or insulting.

They also argued that placing them on their defence after dismissing their application for discharge at the close of the prosecution case amounted to a gross misdirection on the part of Magistrate Mateko because all three state witnesses had exonerated them of committing an offence as they had confirmed that the accused persons’ messages were not obscene, threatening, abusive or insulting.

They accused Magistrate Mateko of exhibiting bias against the award winning novelist and pro-democracy campaigner by relying on some baseless speculation and conjecture regarding potential

breach of peace through social media and contended that the sentence imposed against them was disproportionate and induced a sense of shock.

On Monday 8 May 2023, High Court Judges Justice **Happias Zhou** and Justice **Benjamin Chikowero**, who presided over hearing and determination of their appeal allowed the duo's request and set aside the conviction and sentence of Dangarembga and Barnes after ruling that Magistrate Mateko erred and misdirected herself when she found them guilty at the end of their trial.

After setting aside Magistrate Mateko's ruling, Justice Zhou and Chikowero found the duo not guilty and acquitted them.

ENDS

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