

Essop— 'aim to suppress evidence'

THE STAR THURSDAY FEB 24 1972.

Pretoria Bureau

THERE had been a deliberate attempt in the Essop case to suppress the evidence of Dr V. D. Kemp, a Johannesburg district surgeon, Mr I. A. Maisels, QC, said in the Supreme Court, Pretoria, today.

Mr Maisels made this allegation in his argument in the case.

Mr Justice Marais and Mr Justice Theron have to decide whether to confirm or set aside an order of October 29 which prevents the police from assaulting a detainee. Mr Mohamed Salim Essop (21), or from interrogating him unlawfully or applying undue pressure on him.

Mr Maisels appearing for Mr Essop, referred to affidavits before court filed by Colonel Greyling of the Security Police and by Professor H. von P. Koch, a senior State pathologist.

In neither of these affidavits was there mention that Dr Kemp had examined Mr Essop and that he had been the first to do so. In court Dr Kemp said he had found bruises on Mr Essop.

Mr Maisels said it was obvious that Colonel Greyling and Professor Koch must have known of Dr Kemp's examination.

"I suggest that there has been a deliberate attempt to suppress the evidence of Dr Kemp from this court," he said.

"All this is a belated attempt to explain the injuries, and it must be viewed by your lordships with the utmost suspicion."

Mr Maisels said the police's handling of the case entitled the court to take one of two views: Either that the police held the court in "utter contempt," or that they were deliberately hiding the fact that Mr Essop was assaulted.

To Page 3, Col 4

Essop—aim to suppress evidence'

(From Page 1)

Earlier Major J. H. Fourie told the court he had made no written statement about the events while he was interrogating Mr Essop. He only made a verbal report to a Colonel du Preez "one or two days after the court application." Nobody asked him for a written statement.

Mr Maisels: You were one of the persons who, if he was assaulted, may have assaulted him? — Yes.

Mr Maisels: Yet no written statement was taken from you? — No.

Mr Maisels: Was the question of whether this man was assaulted taken seriously? — I did not take it seriously because he was not assaulted while under my supervision.

Major Fourie said Mr Essop was arrested at about 11 pm on October 22. He interrogated him intermittently from 2 pm on October 23 to 7 am the next day.

He could not say whether Mr Essop had slept before he began interrogating him, and was not in a position to say exactly how much time was devoted to interrogation.

About the rest Mr Essop was allowed, he said: "It was left to himself when he wanted to sleep." He slept on a mattress on the floor of the interrogation room.

"AFRAID"

Earlier in his evidence, Major Fourie said Mr Essop acted as if he was falling asleep or as if his legs gave way during interrogation. "Once he collapsed while I was speaking to him. He was standing and fell to the floor."

"He appeared very nervous. He gave me the idea he was afraid of something."

At first he tried to put Mr Essop at ease. Later he told him to pull himself together.

"I was under the strong impression that he was playing."

"Eventually he wanted to make a report. He did it in his own handwriting. After the statement, he lay down."

The statement, seven folios long, was placed before Major Fourie after his legal representatives had assumed themselves nobody else would be able to see it.

Major Fourie said Mr Essop's collapse was long before the statement had been made.

Mr Maisels: Any injuries subsequently found on him couldn't have been caused in your custody? — Well, he fell.

Major Fourie said Mr Essop sank to the floor and hit a safe and a fan while falling. He did not fall again. "He only sank to his knees once after that."

The next witness, Major S. Coetzee of Police Headquarters in Pretoria, gave evidence of two shirts with hidden messages in the collars, which were sent to the detainee by a member of his family.

Mr Maisels objected to this evidence as the court was concerned with an application dealing with the fear of whether Mr Essop had been assaulted.

"A smuggled message to the man in custody is not relevant," he said. He said he would withdraw his objection in the interests of a full inquiry into the matter.

Mr Eloff said the evidence was being led "to illustrate the type of danger the police have to guard against in the case of Mr Essop — the reason very special precautions have to be taken in regard to detainees." He said the right

of access to detainees was often abused.

Major Coetzee said the two shirts were received from a member of Mr Essop's family. He could not say what member. It was only hearsay evidence that a family member had sent them, he said.

He examined the shirt collars and found written messages in each shirt. In order to get at the "messages," the collars had to be cut open.

One message was illegible and the other was in an "Indian language." It was not coded, he said.

In cross-examination, Mr Maisels suggested that what was more important than these shirts, was the shirt Mr Essop was wearing when taken to hospital. "It would have been useful to have the shirt to see if there were any blood-stains," he said.

ARGUMENT

Mr Maisels began argument.

"I would just like to get one thing out of the way," he said, referring to the incident of the smuggled shirts, which he described as "comic."

The marks on the collars might have been laundry marks. There was no evidence where the shirts came from or where the police obtained them.

The real concern of the court was the temporary order asking the police to show why they should not be restrained from assaulting Mr Essop.

"This man was detained some time during the night of October 22 or morning of October 23.

"He was taken to John Vorster Square. He had no injuries when detained. This is

the evidence of Colonel Greyling.

And if the evidence of Major Fourie can be believed, there were no injuries at the time Major Fourie stopped interrogating the detainee (7 am on the morning of the 24th).

He said there was no evidence he was injured when falling while being questioned by Major Fourie. Nothing had been said about hitting his head on the safe or that he had cried out. A man barking his head against a safe would at least cry "ouch," he said.

(Proceedings)