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Zondo Commission – KZN police commissioner protected controversial businessman Panday

Detailing what sounded like the plot in a Hollywood detective movie, former KwaZulu-Natal Hawks head Johan Booyesen told the commission of inquiry into state capture on Wednesday of events that occurred between 2010 and 2011 while he investigated the alleged corruption between Durban businessman Thoshan Panday and senior officials in the province's police headquarters.

According to Booyesen, Panday enjoyed the protection of then provincial police commissioner, Mmamonye Ngobeni. So strong was the apparent link between the two, that an angry Ngobeni chastised Booyesen and also sat back quietly when Panday and later his lawyer Tashya Giyapersad verbally attacked Booyesen over his investigation, which started in April 2010.

Booyesen had first been alerted to the alleged irregularities involving Panday company Gold Coast, by brigadier Lawrence Kemp, who had also planned to report it to Ngobeni. Ngobeni happened to be late on the day of a meeting at which Kemp had planned to report this to her, and Booyesen's instinct, as he explained to Kemp, to first probe the contents before relaying it to Ngobeni. Kemp's report pointed to two officials in the supply chain management (SCM) unit, Navin Madhoe and Aswin Narainpersad, as having taken part in alleged transgressions involving a company of Panday's.

He proceeded to appoint two members of his team, Vassen Subramoney and Hans Lategan, in early May to investigate the matter. No more than a few days later, Booyesen received a call from Ngobeni, who instructed him to stop the investigation, saying it would be embarrassing for their office, as there was already a public matter that had put the office's reputation at stake.

To avert any further interference from Ngobeni, Booyesen pretended to have halted the probe, but instructed Subramoney and Lategan to continue, reporting to the Hawks national head office instead. Booyesen had cleared this with then national Hawks head, Anwa Dramat, and the investigation continued. It had been entered on the Saps internal system as an enquiry by Kemp, and not a full-on docket, to avoid detection. This did not help, however, as Booyesen again received a call from an irritated Ngobeni, who demanded to know why he had disobeyed her. He again assured her that his team was not investigating, and warned Lategan that Ngobeni was aware of the advancements in the case.

On closer inspection by the investigators, said Booyesen, it appeared that Gold Coast, acting as a travel agency, charged the South African Police Service (Saps) exorbitant amounts of money for bed & breakfast accommodation of fewer officials than was recorded. The accommodation related to training sessions ahead of the soccer world cup that was shortly to commence. A December transaction was for R113 000, when the actual cost according to the B&B was found to be R29 000. A second accommodation cost Saps R172 000, when the actual cost was R33 000. Both invoices were settled by Saps, at an over-expenditure of R223 000. This interested the investigators, who discovered

that in his capacity within the SCM department, Madhoe could sign off on transactions up to R200 000, and had split the invoice from Gold Coast so that the two payments could be processed undetected.

One morning in early June, Ngobeni summoned Booysen to her office. There he found Kemp and two other officials, Bongani Ntanjana and Fannie Masemola as well as Madhoe, present. It was an uncomfortable meeting, recalled Booysen, given that Madhoe was a suspect in the case. An angry Ngobeni chastised Kemp, whom she accused of caring more about finances than the lives of citizens. Booysen felt like the talking down was meant more for him than Kemp, but said nothing. By the end of the meeting, Ngobeni had appointed Ntanjana and once again ordered Booysen to stay off the matter. Booysen sensed that this was a ruse, as Ntanjana – who passed away in 2012 – had no capacity, nor resources to investigate a case of this magnitude.

A progress report brought to Booysen by Subramoney showed that there were indeed irregular payments made from Saps to several companies owned by Panday. One of these was Gold Coast Trading, for which the investigators had obtained banking details. Gold Coast had been paid for services for which it was not registered as a company, in relation to the accommodation of police officers. The prices for the accommodation were grossly inflated, at Saps' expense, and all transactions happened through the books of Gold Coast and not Saps' internal system designed to facilitate orders and payments. Furthermore, all officials who attend training in the city do so at Chatsworth College, where there are no accommodation charges as it is a facility owned by Saps.

To put pressure on Ngobeni, Booysen gave her a copy of the report, to indicate that his team would not stop the investigation. Ngobeni also called in Ntanjana to ask for a status report from him, and Booysen's suspicions of Ntanjana being a decoy were proven true, as he had not made progress on the investigation since being appointed to it.

Panday got wind of the enquiries made by investigators, in particular relating to a recent purchase of a R2.5-million Ferrari, for which a deposit of just over R500 000 was paid just weeks before, in May. Booysen was once again summoned to Ngobeni's office to explain enquiries into the businessman's account with his bank, Nedbank. In the meeting, at which Panday, Giyapersad and an Advocate Mkhize were also present, Ngobeni kept quiet, while Panday lashed out at Booysen, saying that the investigators did not have a mandate.

Panday attempted to turn the tables and claimed that Subramoney had actually tried to extort R1-million from him to make the investigation go away. He would later submit a signed statement to this effect, as part of the investigation. An additional report from PricewaterhouseCoopers (PWC) indicated that Panday had paid for a surprise party for Ngobeni's husband, Lucas Ngobeni, also in May. At the time that the commissioner had lambasted Booysen over the investigation, the party had been in its planning stages. The cost of the party, according to the invoice obtained, had been R30 000, but Booysen learned through PWC that it had actually only cost R20 000, but R30 000 was recorded at Panday's request.

A statement from Ngobeni's personal assistant revealed that Ngobeni had mentioned the planning of the party at a management meeting, where the assistant had recorded this portion. Annoyed, Ngobeni had later scolded her for having recorded her utterances regarding the party, since this was not an official agenda item.

A second meeting to which Booysen was summoned, with Panday again present, occurred later in June. This time, instead of Advocate Mkhize, it was Advocates Chaudhary and Sticks Mdladla present, and it was Giyapersad's turn to lash out at Booysen. A heated exchange between her and Booysen led to Ngobeni adjourning the meeting. Again she had said nothing. Booysen proceeded to lay a complaint with the KwaZulu-Natal Law Society over Giyapersad's conduct.

He would learn later on in the investigation that Giyapersad had allegedly presented a witness in the investigation – the owner of the B&B that had accommodated police officials months earlier, with a prepared affidavit aimed at altering his earlier one in which he had implicated Panday. The owner, an Edward Ngwenya, later told the Hawks that because he had exchanged large volumes of documents with Gold Coast, he had thought he was being asked to sign something related to the business the company had brought him, and not an official legal document.

Booyesen continues to testify.

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