

IN THE SEYCHELLES COURT OF APPEAL

YVETTE VIDOT

APPELLANT

vs

JOHNNA ALLY

RESPONDENT

SCA 34/2010

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*(Before: MacGregor, PCA, Twomey & Msoffe, JJA)*

Counsel: Mr B. Hoareau for the Appellant  
Mr J. Camille for the Respondent

JUDGMENT

MACGREGOR, P.,

This is a case between two ladies who were friends before they fell out because one was having a relationship with the husband of the other, and as a result of the consequent animosity between them, one assaulted the other in a church at Anse Royale, where both were to attend mass.

The issue here is one of quantum of damages for the assault and whether provocation as a result of the adulterous relation of the Plaintiff now Appellant with the assaulter's husband, was material in mitigating the damages.

The authorities tend to show as in David vs. Joubert (1984) SLR, that although provocation is recognized as a fact, it is not material to negate or minimize damages claimed.

For the time being that case stands as persuasive authority on provocation, but it may be an area that merits review in future cases.

Otherwise we consider the damages to be on the low side considering that assault happened in a church , in front of a lot of people including the parish priest who knew the Appellant. She has felt embarrassed and shy to go to that church again.

We note in the case of David (*supra*) that the assault caused considerable physical injury and was out of anger or provocation as claimed; that the victim was having a relationship with the assaulter's wife, and that he openly boasted about it saying he would do it as much as he liked. That was in 1984, and the victim of the assault was awarded only SR2,000 as moral damages.

Accordingly we hold the award warrants an increase for the physical injury from Rs.3,000/- to Rs.5,000/-, and for moral damages an increase from Rs.2,000/- to Rs.5,000/- making a total of Rs.10,000/- due in damages by the Respondent to Appellant.

We so hold and the appeal is allowed with costs.

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F. MACGREGOR  
PRESIDENT

I concur:

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M. TWOMEY  
JUSTICE OF APPEAL

I concur:

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J MSOFFE  
JUSTICE OF APPEAL

*Dated this 31<sup>st</sup> August 20120, Victoria, Seychelles*

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