

IN THE SUPREME COURT OF SEYCHELLES

FERNAND LAPORTE

PLAINTIFF

VERSUS

GERARD SERAPHINE

DEFENDANT

Civil Side No 309 of 2005

Mr A. Derjacques for the Plaintiff

JUDGMENT

Perera J

This is a delictual action in which the plaintiff avers that the defendant insulted him, threatened him and also trespassed on his property. He also avers that the defendant made false and malicious accusations implying that he was having an affair with his wife. He therefore claims Rs50,000 as moral damages and an order on the defendant to refrain from insulting, threatening and communicating with him.

The defendant who was served with notice of action, defaulted appearance, and hence the case was heard *exparte*.

The plaintiff is a 55 year old carpenter, who lives at the SACOS Flats at Anse Etoile. The defendant is unemployed, and is living separated from his wife Agnes Seraphine. According to the plaintiff, the defendant suspects that his wife visits him due to their friendship. He testified regarding two incidents. One, in June 2005, when the defendant came to his residence, parked his car on the driveway and abused him. He locked the gate behind the car and called the Police. The statement he made to the Police was produced as exhibit P1.

He further stated that the defendant on a subsequent occasion threw stones at his house, and again he came to his verandah and threatened him stating that his wife was with him.

The plaintiff also testified regarding another incident that took place recently, and produced a copy of statement he made to the Police (P2). He stated that the defendant came and abused him that day and he got down the Police. When they arrived, the defendant went into hiding, but returned after they went and continued to abuse him till 2.30 a.m. The Police searched the house on his invitation and saw that the wife of the defendant was not in the house. The next day he found that tyres of his vehicle had been deflated.

W.P.C. Farida Sabury, testified regarding the first incident in June 2005. When she went to the plaintiff's residence the defendant was present outside, and complained that his wife was inside the house. He had a camera in his hand. However only she and L/C Doudee, entered the house, but they did not find anyone there. She then warned the defendant to desist from harassing the plaintiff. On a subsequent day, she went to the residence of the plaintiff once more, this time to investigate a complaint of throwing stones. She found three stones in the verandah, and a small dent on the plaintiff's pick up.

Lance Corporal Joycelin Doudee testified that he investigated a complaint made by the plaintiff at the defendant was roaming round the house. When he went there, the defendant was standing with a camera in hand. He told the Police Officers that his wife was in the plaintiff's house. With the permission of the plaintiff, he and WPC Sabury entered the house, but did not see anyone there.

On a consideration of the uncontradicted evidence of the plaintiff and his

witnesses, the Court is satisfied that the defendant had made unsubstantiated accusations against the plaintiff, trespassed on his property and harassed him. He is therefore liable in damages.

On a consideration of all the circumstances of the case, I award a sum of Rs20,000 as damages payable by the defendant to the plaintiff. Order is also hereby made restraining the defendant from insulting, threatening and approaching the plaintiff in future.

The plaintiff will also be entitled to interest on the said amount, and costs of action calculated on the Magistrates' Court scale of fees and costs.

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A. R. PERERA

JUDGE

Dated this 12th day of May 2006