

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: 423/2006

[2017] SCSC

Wavel Ramkalawan

Plaintiff

versus

1. Parti Lepep formerly the Seychelles Peoples' Progressive Front
2. Marie Antoinette Rose (the Editor) Information Services of the Seychelles People's Progressive Front

Defendant

Heard: 10 February 2017

Counsel: Mr. Anthony Derjacques for the Plaintiff
Mr. Elvis Chetty for the Defendant

Delivered: 30 May 2017

JUDGMENT

M. TWOMEY, CJ

[1] The Plaintiff, the leader of the Opposition in the National Assembly, brought a defamation suit against the First and Second Defendants, a registered political party and the owner of People Plus Newsletter, and its editor respectively, for two articles published in its newspaper on 26 and 27 October 2006.

[2] The articles printed in Creole translated into the English language state as follows:

1. Thanks to Doctor Herminie, the drivers of the National Assembly learned that they were earning less money than they deserved. It was a technical issue and has since been resolved. Jj's government had decided to refund the money owed to them by the National Assembly. All the drivers have received their money except

Alexis, Ramkalawan's driver, who apparently is not aware that money is due to him. What we understand is that Wavel is pressuring the Government to put the monies in his bank account, because according to him he had already paid Alexis all is monies. But it appears that his is not the case.

2. When you employee treats you with loyalty and respect, there is nothing that a boss misses. He will always get the loyalty and respect of this employee. But the leader of the Opposition doesn't appreciate what he has got. During all those years Alexis has been the honest man around his leader Ramkalawan, defended him, covered up his sins and always on time for him. What do we see today? Ramkalawan is asking that monies due to Alexis should be put in his personal account. Tell us Alexis has your boss told you that there is 40 Thousand Rupees due to you, from the Government. The SPPF Government is not stealing your money, it is giving you all your benefits, all the other drivers have already received theirs, where is your money Alexis. The saddest part is that Alexis was the same man who got a special mention during the last Convention, he was given a cup. Unfortunately Alexis a cup does not put food in ones' stomach. Because Alexis did not give you his money you deserve a red card because you are trying to steal from this poor man who's done a lot for you. Look around you Alexis, you will see everybody has deserted Ramka. Ask yourself why.

[3] The Plaintiff avers that the statements complained of in their natural and ordinary meaning or by innuendo are understood to refer to him and to mean that he is dishonest, corrupt, a thief and fraudster which may constitute criminal acts as per the laws in Seychelles. He further avers that that the statements are false, malicious and calculated to expose the Plaintiff to public ridicule, odium and hatred and constitute a grave libel.

[4] He also avers that by reason of the publication he has been severely injured in his credit, character and reputation and has been brought into public ridicule, hatred and contempt generally and by his colleagues, friends and political supporters and that he has as a result suffered prejudice in his capacity as leader of the Opposition and the leader of the Seychelles National Party (hereinafter SNP) which he estimated at SR 1,000, 000.

- [5] The Defendants in their joint Statement of Defence generally deny that statements in the Plaintiff aver that the meaning given to the words in the publications are not “to its proper meaning, either literally or by innuendo” and put the Plaintiff to strict proof of the prejudice he has suffered.
- [6] The trial judge allocated the hearing of this suit did not proceed to hear the same and after his suspension in 2016, I proceeded eleven years later to hear the case. This in its own right is problematic, especially given the nature of the suit. I shall return to this later.
- [7] The Plaintiff testified. He stated that he was an Anglican priest by vocation presently attached to St. Luke’s parish at Bel Ombre. He was a founder member of the opposition party, Parti Seselwa, which then changed its name to Parti Seselwa, then to United Opposition, then to SNP and today he is one of the leaders of Linyon Demokratik Seselwa.
- [8] In July 2006 he stood against James Michel as presidential candidate and won 45% of the votes. The National Assembly Elections were held in May 2007.
- [9] He stated that the distribution of the newspaper with the articles was to about 10,000 readers. The articles referred to payments to drivers. He had three staff members and their salaries and other benefits were paid into his personal account and from that account he would pay them.
- [10] Mr. Lewis Alexis, his driver, was authorised a salary of SR 6,805.50. The money mentioned in the article related to the fact that there had been a mistake in the computation of salaries paid to drivers at the National Assembly. They were owed a commuted transport allowance and when the issue was sorted out in October 2006 the underpayment of SR 40,200 was transferred to his account from which he made payment to Mr. Alexis on 27 October 2006. He produced documentary evidence of the same; namely a letter from Sheila Banks, clerk to the National Assembly, a credit advice slip from Habib Bank dated 23 October 2006 and copies of cheques drawn from Habib Bank. The cheques were for SR 39,338 and the other cheque was for payment of Social Security.

- [11] The articles were brought to his attention by Mr. Alexis. It made him angry. Mr. Alexis had worked with him from 1990 and was the one who had taken his children to school, treated him with respect and was like a father to him. He spent a lot of time in his company and was the first and last person he was every day. The article was trying to turn Mr. Alexis against him. Mr. Alexis had since retired but still receives a monthly allowance.
- [12] At the time of the article Mr. Alexis was 66 years old. The article tried to portray the Plaintiff as a bad person a monster in his treatment of a loyal employee. The words in the article speak for themselves, the intention was to portray him as a thief with the reference to a red card indicting that he should be sanctioned.
- [13] In cross examination he stated that for all previous Assembly elections he had stood for the St. Louis constituency three times, had won twice and it had become a safe seat. The strategy in 2007 was to stand for Anse Etoile which was the biggest constituency, win it and also increase the member of votes in terms of proportional representation. It was a gamble that paid off.
- [14] He did not accept that the articles were only querying the fact that money was paid for the benefit of Mr. Alexis. He did not accept that if his reputation had been tarnished by the article he would not won the seat at Anse Etoile. He did accept that the article did not affect his relationship with his driver.
- [15] Mr. Lewis Alexis testified. He has worked with the Plaintiff since the 1990's and continues to work for him. He would drive him and also deliver papers. He was paid by the Assembly. They would send his money to the Plaintiff who in turn would pay him by cheque drawn at Habib Bank. In 2006 he received SR 38,000 or SR 39,000 by cheque from the Plaintiff and he cashed it.
- [16] One morning while he was in town he saw the article in which it was stated that this money had been stolen by the Plaintiff. He showed the article to the Plaintiff who was by its contents. The article was aimed at making the Plaintiff lose his prestige.

[17] Mr. Roger Mancienne also testified. He confirmed the Plaintiff's account of the circumstances surrounding the article. He stated that the article was very damaging. He was concerned about his reputation and what it would do for his political prospects. It was impossible to know what impact it had on the Plaintiff although it had an effect on his reputation if it were to stand as presidential candidate subsequently.

[18] No evidence was adduced by the Defendants.

[19] Counsel for the parties made the same submissions as they had done in the case of *Ramkalawan v PL CS 548/2006*. I need not repeat them but join that judgment to this one for the submissions made and authorities relied on and my reasoning for adopting the decision I did.

[20] The same findings are made for the present case for the same reasons given.

[21] I therefore award the Plaintiff Rupees SR 100, 000 being a reasonable sum for the prejudice suffered, together with interest thereon and costs of the action.

Signed, dated and delivered at Ile du Port on 30 May 2017.

M. TWOMEY
Chief Justice