

**IN THE SUPREME COURT OF SEYCHELLES**

**PETER ANTAT**

**Vs**

**THE ATTORNEY GENERAL**

*Civil Side No: 46 of 1999*

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Mrs. Amesbury for the plaintiff

Mrs. Cesar for the defendant

**Judgment**

**Introduction**

The Plaintiff entered this Plaint on 12<sup>th</sup> February, 1999 claiming the total sum of SR150,000.00 from the Defendant as moral damages for unlawful arrest. The damages are particularized as follows:

- |  |                       |
|--|-----------------------|
| 1. Moral damage for pain and suffering as a result of being assaulted and tortured | - SR 50,000.00        |
| 2. Moral damage for depression, emotional stress, humiliation and fear             | - SR 50,000.00.       |
| 3. Unlawful arrest and illegal detention   | - <u>SR 50,000.00</u> |
| <b>Total</b>   | <b>- SR150,000.00</b> |

**The Parties**

It is not in dispute that at all material times the Plaintiff was a self-employed farmer and the Defendant operates and administers the Seychelles Defence Forces (hereinafter SPDF). The President of the Republic is both the Commander-in-Chief and the Minister of the said SPDF with the Government of Seychelles.

**Plaintiff's Case**

It is the case of the Plaintiff that on 18<sup>th</sup> October, 1998 at around 10.00 a.m. at Bel Ombre, Mahe, he was arrested and detained at Grand Police Military Base by soldiers whose names are unknown of the SPDF acting in the course of their duties with the Defendant.

The Plaintiff averred that at the Grand Police Military Base, he was repeatedly assaulted and tortured by those soldiers of SPDF.

On 20<sup>th</sup> October, 1998 the Plaintiff filed an application for the issue of a Writ Habeas Corpus before the Supreme Court of Seychelles.

The Plaintiff averred that he was released on 29<sup>th</sup> October, 1998.

The Plaintiff also averred that the action of the unknown soldiers of the SPDF amount to a "faute" in law and the Defendant is vicariously liable for their actions.

By reasons of the matters pleaded, the Plaintiff claimed to have suffered loss and damages, as particularized above.

**Defendant's Case**

The Defendant denied all the material averments alleged by the Plaintiff except that at all material times the Plaintiff was a self-employed farmer and the Defendant operates and administers the Seychelles Defence Forces (hereinafter SPDF). The President of the Republic is both the Commander-in-Chief and the Minister of the said SPDF with the Government of Seychelles.

The Defendant also does not dispute that on 20<sup>th</sup> October, 1998 the Plaintiff filed an application for the issue of a Writ Habeas Corpus before the Supreme Court of Seychelles.

**The issues**

Except for matters not in dispute between the parties as stated in the previous paragraphs, all other matters contained in the pleadings are issues that have been joined and this Court has now to adjudicate.

**The evidence of Plaintiff**

The Plaintiff testified that on or around 18<sup>th</sup> October, 1998 he was taken from his place at La Gogue at 2 a.m. by SPDF soldiers and brought to Grand Police and all the way he was beaten with polythene pipe by soldiers who were with him in the pick up. The beating with polythene pipe continued even after he had reached Grand Police where he was put against a mast outside and again beaten up. Very hard force was used to inflict the beatings. Other inmates witnessed the beatings. These include Justin Aglae. Another inmate who saw was Georges Aglae who had since died and his body found under a bridge. There are yet others who saw but the plaintiff do not know their names.

The plaintiff added that they detained him for 7 days and they beat him up every day. They removed him from his cell, brought him outside and they beat him up.

On the 7<sup>th</sup> day they released him and put him by the roadside near to where he lived and he was unable to walk at that time. He was taken to hospital and admitted for one and half month. He was beaten under the sole of his feet and there is still scar of injury there and also scar where he had to do skin graft. He also suffered moral damage and he was treated at D'Offay ward and at the Psychiatric Ward for one and a half month.

On 20<sup>th</sup> October, 1998 his mother got a Lawyer to file an application for a Writ of Habeas Corpus in the Supreme Court. On 29<sup>th</sup> October, 1998 he was released from Grand Police after spending 11 days there.

Until now he is still suffering pain from the injury arising out of the beating. His skin itches where the grafting had been done. He cannot wear boots as a farmer is required to do because boots caused him itchiness.

He was also seen by Dr. Albert from 23<sup>rd</sup> October, 1998 to 20<sup>th</sup> November, 1998. He suffered from 1998 to 2006 when he went again to see Dr. Albert who referred him to the Victoria Hospital for surgery.

The witness added that he was never charged for having committed any offence in connection with the arrest and detention.

### **Evidence of Defendant**

The Defendant did not adduce any evidence in this matter as it did not have any witness that it could summons.

### **Findings and Conclusions**

The only evidence available before this Court upon which this matter is to be adjudicated is that of the Plaintiff which stands uncontroverted. It is simply a matter whether this Court believes such testimony.

I have observed the witness when offering his testimony and I do not have any reason to disbelieve him. He presented cogent evidence and he was clear and unambiguous as to where he was arrested, transported and beaten by the soldiers of the SPDF and detained at the Grand Police Military base where he suffered further beatings during the 11 days that he was detained.

I believe the witness that polythene pipes were used to beat him under the sole of his feet. The Plaintiff got a reprieve from those beatings and detention only when her mother filed an application for a Writ of Habeas Corpus. There again he was simply taken to a place near where he used to live and left by the road side.

I also believe the Plaintiff that he had to seek medical assistance following those beatings and ended up having surgical intervention including skin grafting. The plaintiff still suffers as a result of what he went through.

In the light of my findings I found on a balance of probabilities that the Plaintiff has proven his case against the Defendant. I accordingly enter judgment in favour of the Plaintiff as against the Defendant.

The Plaintiff claimed damages as set out above. These claims arose in 1998 when the value of the Seychelles Rupees in relation of other currencies was higher. For example a US\$ then could fetched not less than SR5.00 whereas today one needs not less than SR14.00 to buy 1 US\$. That is a devaluation of the Seychelles Rupee by almost two thirds. In granting any damage I will adjust this in order to reflect the prevailing situation.

In analyzing the claims of the Plaintiff and in my attempt to make a fair assessment what amount to award, I bear in mind that what the Plaintiff went through amounted to a very gross violation of his rights as a human being in a civilized society as ours. To make matters worst, he was subjected to such suffering and degradation at the hands of an institution of State which is established by the Constitution for the very reason of safeguarding and protecting the rights of the citizens including the Plaintiff. Happily this Court does not have similar cases to handle nowadays.

Although I find that the claims of the Plaintiff are not very excessive, however, I believe that there is a need to be adjusted downwards in order to relate them to other cases of similar nature. In the final analysis I conclude that the following awards are fair and just in the circumstances.

1. Moral damage for pain and suffering as a result of being assaulted and tortured - SR30,000.00

2. Moral damage for depression, emotional stress, humiliation and fear	- SR20,000.00.
3. Unlawful arrest and illegal detention	- <u>SR30,000.00</u>
<b>Total</b>	- <b>SR80,000.00</b>

I accordingly enter judgment in favour of the Plaintiff as against the Defendant in the total sum of **SR80,000.00** with interest and costs.

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B. RENAUD  
**JUDGE**

*Dated this 4 June, 2012 at Victoria, Mahe, Seychelles*